

1 SENATE BILL 36

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

3 INTRODUCED BY

4 Tim Eichenberg

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7
8 FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

9
10 AN ACT

11 RELATING TO TAXATION; CREATING A FINANCING MECHANISM FOR PUBLIC
12 TRANSPORTATION INFRASTRUCTURE; DEDICATING GROSS RECEIPTS TAX
13 INCREMENTS; AUTHORIZING THE ISSUANCE OF BONDS; ENACTING THE
14 TRANSPORTATION REINVESTMENT ZONE ACT; DECLARING AN EMERGENCY.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. SHORT TITLE.--This act may be cited as the
18 "Transportation Reinvestment Zone Act".

19 SECTION 2. FINDINGS AND PURPOSE.--

20 A. The purpose of the Transportation Reinvestment
21 Zone Act is to:

22 (1) create a financing mechanism for the
23 development and redevelopment of transportation infrastructure
24 by using a dedicated gross receipts tax increment for public
25 infrastructure; and

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1 (2) establish certain land use standards that
2 support economic development and job creation, promote public
3 safety, facilitate the movement of persons and materials and
4 enable a local government to establish a zone that is able to
5 collaborate to access other funding sources in order to finance
6 public infrastructure.

7 B. The legislature finds and declares that the
8 powers conferred by the Transportation Reinvestment Zone Act
9 are for public uses and purposes for which public money may be
10 expended and the public power exercised.

11 SECTION 3. DEFINITIONS.--As used in the Transportation
12 Reinvestment Zone Act:

13 A. "adjusted taxable gross receipts" means taxable
14 gross receipts plus, to the extent that dedicated gross
15 receipts tax includes distributions pursuant to Section
16 7-1-6.46 or 7-1-6.47 NMSA 1978, the amount of deductions
17 allowed under Sections 7-9-92 and 7-9-93 NMSA 1978;

18 B. "base adjusted gross receipts taxes" means:
19 (1) the total amount of revenue from gross
20 receipts taxes imposed on adjusted taxable gross receipts for
21 reporting periods covering business activity in the base year
22 and designated by the governing body to be available as part of
23 the gross receipts tax increment; provided that, in the first
24 year that a gross receipts tax increment is dedicated, the
25 amount of base adjusted gross receipts taxes shall be

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1 determined from actual gross receipts tax revenue, to the
2 extent possible, or estimated by multiplying the amount of
3 adjusted taxable gross receipts reported in that first year by
4 a factor reflecting an estimated growth rate from the base
5 year, where the estimate is made by the governing body that
6 adopted a resolution to form a transportation reinvestment zone
7 in consultation with the taxation and revenue department and
8 other economic forecasting experts in New Mexico;

9 (2) any amount of gross receipts taxes that
10 would have been collected in the base year if any applicable
11 additional gross receipts taxes or rate increases imposed or
12 put into effect after that year had been imposed in that year;
13 and

14 (3) when an area is added to an existing
15 transportation reinvestment zone, the amount of gross receipts
16 taxes from the adjusted taxable gross receipts reported in the
17 added area in the calendar year that includes the effective
18 date of the modification of the transportation reinvestment
19 zone;

20 C. "base year" means the calendar year in which the
21 transportation reinvestment zone is created and, when an area
22 is added to an existing zone, for purposes of determining the
23 gross receipts tax increment for the area added to the
24 transportation reinvestment zone, the calendar year that
25 includes the effective date of the modification of the

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1 transportation reinvestment zone plan;

2 D. "governing body" means the city council or city
3 commission, the board of trustees or council of a municipality
4 or the board of county commissioners of a county;

5 E. "gross receipts tax increment" means the gross
6 receipts taxes collected within a transportation reinvestment
7 zone in excess of the base adjusted gross receipts taxes for
8 the duration of the existence of a transportation reinvestment
9 zone and distributions pursuant to Section 7-1-6.46 or 7-1-6.47
10 NMSA 1978 to the transportation reinvestment zone;

11 F. "gross receipts tax increment bonds" means bonds
12 issued by a transportation reinvestment zone in accordance with
13 the Transportation Reinvestment Zone Act, the pledged revenue
14 for which is a gross receipts tax increment;

15 G. "local government" means a municipality or
16 county, or both;

17 H. "local option gross receipts tax" means a gross
18 receipts tax imposed by a municipality or a county pursuant to
19 the Municipal Local Option Gross Receipts Taxes Act, Local
20 Hospital Gross Receipts Tax Act, County Local Option Gross
21 Receipts Taxes Act or County Correctional Facility Gross
22 Receipts Tax Act and designated by the governing body that
23 imposed the tax to be available as part of the gross receipts
24 tax increment;

25 I. "municipality" means an incorporated city, town

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1 or village;

2 J. "permitted activity" means:

3 (1) acquisition of land within the
4 transportation reinvestment zone;

5 (2) demolition and removal of buildings and
6 improvements;

7 (3) installation, construction or
8 reconstruction of transportation improvements, generation and
9 power transmission facilities needed for transportation
10 improvements and other public improvements necessary to carry
11 out the objectives of the Transportation Reinvestment Zone Act;

12 (4) disposition of property acquired or held
13 by a transportation reinvestment zone as part of the
14 undertaking of a transportation reinvestment zone project at
15 the fair market value of the property;

16 (5) contracting for professional services
17 necessary to implement a transportation reinvestment zone plan
18 or project and engaging or discharging employees of the
19 transportation reinvestment zone;

20 (6) issuing gross receipts tax increment bonds
21 for the purchase of land, buildings or infrastructure in an
22 amount not to exceed seventy-five percent of the revenue stream
23 that may be derived from the gross receipts tax increment
24 estimated to be received by a transportation reinvestment zone;
25 and

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1 (7) obtaining grants for public improvements;

2 K. "public improvement" means an off-site
3 improvement that is owned by a local government, the state or
4 the federal government when the improvement is completed and is
5 a necessary part of a transportation improvement or ancillary
6 to a transportation improvement and deemed to directly or
7 indirectly benefit a transportation reinvestment zone or
8 facilitate completion of a transportation reinvestment zone
9 project; "public improvement" includes:

10 (1) completed transportation reinvestment zone
11 projects;

12 (2) sanitary sewage and solid waste systems,
13 including collection, transport, treatment, dispersal, effluent
14 use and discharge related to or located on, under or adjacent
15 to transportation improvements;

16 (3) drainage and flood control systems,
17 including collection, transport, storage, treatment, dispersal,
18 effluent use and discharge related to or located on, under or
19 adjacent to transportation improvements;

20 (4) water systems for domestic, commercial,
21 office, hotel or motel, industrial, irrigation, municipal or
22 fire protection purposes, including production, collection,
23 storage, treatment, transport, delivery, connection and
24 dispersal related to or located on, under or adjacent to
25 transportation improvements;

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1 (5) parks, recreational facilities and open
2 space areas for the use of members of the public for
3 recreation, entertainment and public assembly related to or
4 located on or adjacent to transportation improvements;

5 (6) landscaping, including earthworks,
6 structures, plants, trees and related water delivery systems
7 related to or located on, under or adjacent to transportation
8 improvements;

9 (7) local government-owned electrical
10 generation, transmission and distribution facilities related to
11 or located on, under or adjacent to transportation
12 improvements;

13 (8) local government-owned natural gas
14 distribution facilities related to or located on, under or
15 adjacent to transportation improvements;

16 (9) local government-owned lighting systems
17 related to or located on, under or adjacent to transportation
18 improvements;

19 (10) local government-owned cable or other
20 telecommunications lines and related equipment related to or
21 located on, under or adjacent to transportation improvements;

22 (11) traffic control systems and devices,
23 including signals, controls, markings and signage related to or
24 located on, under or adjacent to transportation improvements;

25 (12) school sites and facilities with the

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1 consent of the governing board of the school district for which
2 the facility is to be acquired, constructed or renovated,
3 libraries, other public educational or cultural facilities,
4 other public buildings, police, fire and other public safety
5 facilities and work force housing;

6 (13) equipment, vehicles, furnishings and
7 other personal property for local government facilities
8 included as components of the larger items listed in this
9 subsection;

10 (14) inspection, construction management,
11 planning and program management and other professional services
12 costs incidental to the transportation reinvestment zone
13 project; and

14 (15) any other improvement that the governing
15 body determines to be for the use or benefit of the public
16 related to or located on, under or adjacent to transportation
17 improvements;

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

24 M. "taxable gross receipts" means "gross receipts"
25 as that term is defined for purposes of the Gross Receipts and

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1 Compensating Tax Act, excluding any exemptions and less any
2 deductions allowed for purposes of the Gross Receipts and
3 Compensating Tax Act, that are reported within a transportation
4 reinvestment zone on returns for which the corresponding gross
5 receipts tax has been paid;

6 N. "taxing authority" means the governing body of
7 one or more political subdivisions of the state that has
8 established a transportation reinvestment zone, the gross
9 receipts tax increment of which may be used for a
10 transportation reinvestment zone project;

11 O. "transportation improvement" means publicly
12 owned infrastructure that significantly improves the mobility
13 of people within a transportation reinvestment zone and
14 includes public improvements that are determined by the
15 governing body to be advantageous to systematically develop in
16 conjunction with the transportation improvement;

17 "transportation improvement" includes all modes of
18 transportation or transportation facilities, including
19 pedestrian and bicycle transportation facilities that provide
20 for a safer environment, address vehicle parking and include
21 public space improvements, including:

- 22 (1) an interstate and interstate interchanges;
23 (2) a functionally classified arterial roadway
24 and interchanges;
25 (3) main street improvements;

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1 (4) an airport or heliport;

2 (5) improvements that are designed to give
3 preferential treatment to transit modalities to reduce transit
4 travel time, improve service reliability, increase the
5 convenience of users and increase transit ridership, including:

6 (a) a fixed guideway, high occupancy
7 vehicle lane, transit way or transit lane;

8 (b) a transit center or station; and

9 (c) other real property associated with
10 a bus rapid transit operation;

11 (6) a passenger or freight rail facility,
12 light rail facility or street car facility that includes
13 tracks, a rail line, a depot, a center or station, a
14 maintenance facility or other real property associated with a
15 rail operation;

16 (7) highways, streets, roadways, bridges,
17 crossing structures and parking facilities, including all areas
18 for vehicular use for travel, ingress, egress and parking
19 related or linked to other transportation improvements; and

20 (8) trails and areas for pedestrian,
21 equestrian, bicycle or other non-motor-vehicle use for travel,
22 ingress, egress and parking related to the other items listed
23 in this subsection;

24 P. "transportation reinvestment zone" means a
25 special district formed pursuant to the Transportation

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1 Reinvestment Zone Act and the land included within the
2 boundaries of the district in which transportation reinvestment
3 zone projects are completed according to a transportation
4 reinvestment zone plan designed to create additional public
5 revenues to improve the local economy, develop needed
6 transportation improvements and improve the ability of local
7 businesses to thrive or grow;

8 Q. "transportation reinvestment zone board" means
9 the governing body of the county or the municipality that
10 controls and oversees the activities of the transportation
11 reinvestment zone;

12 R. "transportation reinvestment zone plan" means a
13 plan that sets out the scope, goals and costs of a
14 transportation reinvestment zone and the intended
15 transportation reinvestment zone projects necessary to complete
16 the plan; and

17 S. "transportation reinvestment zone project" means
18 permitted activities undertaken within a transportation
19 reinvestment zone to enhance the sustainability of the local,
20 regional or statewide economy by creating, renovating,
21 repairing or replacing transportation improvements to improve
22 the mobility of people within the transportation reinvestment
23 zone, region or municipality.

24 SECTION 4. FORMATION OF A TRANSPORTATION REINVESTMENT
25 ZONE.--

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1 A. In order for a transportation reinvestment zone
2 to be formed, a majority of the members of the governing body
3 shall approve its formation.

4 B. Any resolution that is adopted to approve the
5 formation of a transportation reinvestment zone shall:

6 (1) approve a transportation reinvestment zone
7 plan;

8 (2) identify and dedicate all gross receipts
9 tax increments proposed to secure gross receipts tax increment
10 bonds, including a statement as to whether increases in, or
11 subsequently imposed, local option gross receipts taxes are
12 dedicated;

13 (3) establish a maximum principal amount of
14 gross receipts tax increment bonds that may be issued and
15 secured by the gross receipts tax increment; and

16 (4) reference the Transportation Reinvestment
17 Zone Act.

18 C. To form a transportation reinvestment zone and
19 to permit additional development to create the gross receipts
20 tax increment, a governing body may determine that changes are
21 needed to zoning, master plans or other local plans,
22 subdivision rules and other ordinances and rules of the local
23 government to permit:

24 (1) development at the maximum density,
25 floor-area ratio, units per area or intensity as permitted

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1 under zoning categories, without the need for a further public
2 hearing;

3 (2) expedited subdivision procedures that are
4 in compliance with the New Mexico Subdivision Act or, if
5 applicable, the Land Subdivision Act and other applicable
6 statutes; and

7 (3) an expedited approval process for a
8 development plan and a construction document review that allows
9 the governing body to issue building permits, to the extent
10 allowed by state statute and the local government's charter,
11 and provide for conditional uses, for both transportation
12 reinvestment zone-financed improvements and privately financed
13 improvements, to be administratively issued and approved so
14 long as they conform with the applicable land-use constraints.

15 D. Any changes to zoning ordinances, the master
16 plan of the municipality, building codes, form-based codes,
17 other governing body ordinances and subdivision rules may be
18 adopted as part of the resolution forming the transportation
19 reinvestment zone, unless the applicable ordinances and rules
20 of the governing body require a separate action by the
21 governing body. All required notices in relation to changes
22 made pursuant to this subsection shall be provided to the
23 required parties; provided that failure to receive a notice
24 shall not affect the validity of the formation of a
25 transportation reinvestment zone.

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1 E. At least thirty days prior to adopting a
2 resolution forming a transportation reinvestment zone, the
3 governing body of the local government shall notify the
4 secretary of taxation and revenue, the secretary of finance and
5 administration, the director of the legislative finance
6 committee, the secretary of transportation and any governing
7 bodies of taxing authorities located within the transportation
8 reinvestment zone that, on the date, time and location
9 specified in the notice, the governing body intends to consider
10 the formation of a transportation reinvestment zone.

11 F. Except as provided in Subsections G and H of
12 this section, a transportation reinvestment zone may be formed
13 within more than one adjacent local government on the following
14 conditions:

15 (1) the governing body of the local government
16 that has the majority of the geographic area of the
17 transportation reinvestment zone within it shall be the
18 "governing body" generally in relation to the governance of and
19 required approvals as to the transportation reinvestment zone
20 under the Transportation Reinvestment Zone Act;

21 (2) the governing body of a local government
22 that does not have the majority of the geographic area of the
23 transportation reinvestment zone within it shall have approved
24 the formation or extension of the transportation reinvestment
25 zone within that local government; and

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1 (3) prior to any amendment of the
2 transportation reinvestment zone plan, the governing body of a
3 local government that does not have the majority of the
4 transportation reinvestment zone within it shall have approved
5 the amendment.

6 G. A county may form a transportation reinvestment
7 zone within the boundaries of a municipality, in which event,
8 the governing body of the county shall be deemed to be the
9 governing body of the transportation reinvestment zone.

10 H. A municipality may form a transportation
11 reinvestment zone within its boundaries without the consent of
12 the county in which the municipality is located after providing
13 notice to the county in writing of the intended creation of the
14 transportation reinvestment zone; provided that the county has
15 not created a transportation reinvestment zone within the
16 exterior boundaries of the municipality.

17 I. Two or more transportation reinvestment zones
18 shall not be created in a manner that requires the area of one
19 transportation reinvestment zone to overlap another previously
20 existing transportation reinvestment zone.

21 **SECTION 5. CONTENTS OF A TRANSPORTATION REINVESTMENT ZONE**

22 **PLAN.--**A transportation reinvestment zone plan shall include:

23 A. a map depicting the geographical boundaries of
24 the transportation reinvestment zone;

25 B. a description of the proposed transportation

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1 reinvestment zone projects, including a description of the
2 permitted activities, public improvements and privately
3 financed projects identified as necessary to complete the
4 transportation reinvestment zone projects;

5 C. the estimated time necessary to complete the
6 transportation reinvestment zone projects;

7 D. a description and the estimated cost of all
8 permitted activities and public improvements proposed for the
9 transportation reinvestment zone projects; and

10 E. the estimated annual gross receipts tax
11 increment to be generated from within the transportation
12 reinvestment zone, the portion of that gross receipts tax
13 increment to be allocated during the time necessary to complete
14 the transportation reinvestment zone plan and the manner of
15 financing the costs of the plan.

16 SECTION 6. TRANSPORTATION IMPROVEMENTS--INTEGRATION WITH
17 LAND-USE PLANS.--Transportation improvements shall be
18 integrated with associated proposed land-use changes to
19 generate development or redevelopment by improving access to
20 manufacturing and industrial areas, employment centers, retail
21 centers and housing.

22 SECTION 7. NOTICE OF FORMATION OF A TRANSPORTATION
23 REINVESTMENT ZONE.--

24 A. If a transportation reinvestment zone is formed
25 by a governing body, the governing body shall transfer a copy

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1 of the resolution ordering formation of the transportation
2 reinvestment zone and a copy of the transportation reinvestment
3 zone plan to each of the following persons or entities:

4 (1) any taxing authorities within which any
5 portion of the property located within a transportation
6 reinvestment zone area lies;

7 (2) the taxation and revenue department;

8 (3) the local government division of the
9 department of finance and administration;

10 (4) the legislative finance committee; and

11 (5) the secretary of transportation.

12 B. If a gross receipts tax increment attributable
13 to the state gross receipts tax is anticipated as part of the
14 funding for the transportation reinvestment zone, copies of the
15 resolution ordering the formation of the transportation
16 reinvestment zone and the transportation reinvestment zone plan
17 shall be transferred to the interim revenue stabilization and
18 tax policy committee of the legislature.

19 C. A notice of the formation showing the number and
20 date of the resolution and giving a description of the land
21 included in the transportation reinvestment zone shall be
22 recorded with the clerk of the county in which the
23 transportation reinvestment zone is located.

24 D. A transportation reinvestment zone shall be a
25 political subdivision of the state, separate and apart from a

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1 municipality or county.

2 SECTION 8. GOVERNANCE OF A TRANSPORTATION REINVESTMENT
3 ZONE.--

4 A. Following formation of a transportation
5 reinvestment zone, the governing body shall administer in a
6 reasonable manner the implementation of the transportation
7 reinvestment zone plan as approved by the governing body and as
8 approved by all taxing authorities, subject to the procedure
9 for amendment set forth in the Transportation Reinvestment Zone
10 Act.

11 B. The transportation reinvestment zone shall be
12 governed by the governing body that adopted a resolution to
13 form the transportation reinvestment zone.

14 C. In the event that a gross receipts tax increment
15 attributable to the imposition of the state gross receipts tax
16 is anticipated to be used to finance public improvements, prior
17 to the formation of a transportation reinvestment zone, the
18 governing body shall have:

19 (1) received approval for the use of the gross
20 receipts tax increment for the transportation reinvestment zone
21 from the legislature in the form of a joint resolution that
22 sets forth the summary of the details of the transportation
23 reinvestment zone plan; and

24 (2) consulted with the secretary of
25 transportation regarding the scope of the public improvements

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1 that are to be dedicated to the state.

2 SECTION 9. RECORDS--OPEN MEETINGS.--

3 A. A transportation reinvestment zone shall keep
4 the following records, which shall be open to the public:

5 (1) minutes of all meetings of the
6 transportation reinvestment zone board, which need not be
7 separately kept from the regular minutes of the governing body;

8 (2) all resolutions;

9 (3) accounts showing all money received and
10 disbursed;

11 (4) the annual budget; and

12 (5) all other records required to be
13 maintained by law.

14 B. A transportation reinvestment zone board shall
15 appoint a clerk and a treasurer for the transportation
16 reinvestment zone, who may be different persons than the clerk
17 and treasurer for the governing body, need not be members of
18 the governing body and shall be employees of the transportation
19 reinvestment zone if not members of the governing body or
20 otherwise employees of the governing body.

21 C. All meetings of a transportation reinvestment
22 zone shall be open meetings held in accordance with the Open
23 Meetings Act.

24 SECTION 10. TRANSPORTATION REINVESTMENT ZONE POWERS.--

25 A. In addition to other express or implied

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1 authority granted by law, a transportation reinvestment zone
2 may:

3 (1) enter into contracts or expend money for
4 any permitted activity with respect to the transportation
5 reinvestment zone;

6 (2) enter into agreements with a municipality,
7 county or other local governmental entity in connection with
8 real property located within the transportation reinvestment
9 zone;

10 (3) enter into an intergovernmental agreement
11 in accordance with the Joint Powers Agreements Act for the
12 planning, design, inspection, ownership, control, maintenance,
13 operation or repair of permitted activities within the
14 transportation reinvestment zone or for any other purpose
15 authorized by the Transportation Reinvestment Zone Act;

16 (4) sell, lease or otherwise dispose of
17 transportation reinvestment zone property if the sale, lease or
18 conveyance is not a violation of the terms of a contract, a
19 bond covenant of the transportation reinvestment zone, state
20 laws or the constitution of New Mexico;

21 (5) negotiate with a municipality or county in
22 which the transportation reinvestment zone is located to
23 determine an appropriate amount that the transportation
24 reinvestment zone will reimburse the municipality or county for
25 providing services within the transportation reinvestment zone

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1 area;

2 (6) engage and compensate counsel, advisers,
3 consultants or employees of the transportation reinvestment
4 zone directly from gross receipts tax increment receipts;

5 (7) reimburse a municipality or county in
6 which the transportation reinvestment zone is located for staff
7 and consultant services and support facilities supplied by the
8 municipality or county;

9 (8) accept gifts or grants and incur and repay
10 loans for permitted activities;

11 (9) enter into an agreement with a private
12 party concerning the advance of money by a private party for a
13 permitted activity or the granting of real property by the
14 private party for a public improvement or transportation
15 improvement;

16 (10) pay the financial, legal and
17 administrative costs of the transportation reinvestment zone
18 directly from gross receipts tax increment receipts;

19 (11) enter into contracts, agreements and
20 trust indentures to obtain credit enhancement or liquidity
21 support for its bonds and process the issuance, registration,
22 transfer and payment of its bonds and the disbursement and
23 investment of proceeds of the bonds in accordance with the
24 provisions for investment of funds by local government
25 treasurers;

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1 (12) issue bonds within the limits of the
2 Transportation Reinvestment Zone Act to fund permitted
3 activities, including the construction, operation and
4 maintenance of public improvements until dedicated to a public
5 body or for any other lawful public purposes related to the
6 purposes of the Transportation Reinvestment Zone Act;

7 (13) use public easements and rights of way in
8 or across public property, roadways, highways, streets or other
9 thoroughfares and other public easements and rights of way of
10 the transportation reinvestment zone, municipality or county
11 after consultation and approval of the public entity
12 controlling the easement or right of way; and

13 (14) contract with a public or private entity
14 to conduct permitted activities to construct, renovate or
15 otherwise change a public improvement or transportation
16 improvement in a transportation reinvestment zone plan and
17 pledge and assign a specified amount of money in a tax
18 increment account to that public improvement or transportation
19 improvement; provided, however, that after a pledge or
20 assignment is made, if the public or private entity has itself
21 pledged or assigned that amount to secure bonds or other
22 obligations issued to obtain funding for the public improvement
23 or transportation improvement, the transportation reinvestment
24 zone may not rescind its pledge or assignment until the bonds
25 or other obligations secured by the pledge or assignment have

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1 been paid or discharged.

2 B. Notwithstanding the provisions of the
3 Procurement Code or local procurement requirements that may
4 otherwise be applicable to the municipality or county in which
5 the transportation reinvestment zone is located, the
6 transportation reinvestment zone board may enter into contracts
7 to carry out any of the transportation reinvestment zone's
8 authorized powers, including the permitted activities required
9 to make transportation improvements or public improvements.

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

12 D. A transportation reinvestment zone shall not use
13 the proceeds of gross receipts tax increment bonds to finance
14 public improvements exclusively for the use of a casino.

15 E. A transportation reinvestment zone shall not use
16 transportation reinvestment zone bonds to pay salaries of
17 administrative employees or to pay for administrative expenses
18 not directly related to the execution of a transportation
19 reinvestment zone project.

20 **SECTION 11. GROSS RECEIPTS TAX INCREMENT FINANCING.--**

21 A. Notwithstanding any law to the contrary, but in
22 accordance with the provisions of the Transportation
23 Reinvestment Zone Act, a portion of certain gross receipts tax
24 increments collected within the transportation reinvestment
25 zone area after the effective date of approval of the

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1 transportation reinvestment zone plan may be dedicated for the
2 purpose of securing gross receipts tax increment bonds pursuant
3 to the Transportation Reinvestment Zone Act.

4 B. The gross receipts tax increment generated by
5 the imposition of local option gross receipts taxes specified
6 by statute for particular purposes may be dedicated for the
7 purposes of the Transportation Reinvestment Zone Act if the
8 intent to do so is set forth in the transportation reinvestment
9 zone plan approved by the governing body and if the purpose for
10 which the gross receipts tax increment is intended to be used
11 is consistent with the purposes set forth in the statute
12 authorizing the local option gross receipts tax; provided that
13 the use of the gross receipts tax increment for purposes of the
14 transportation reinvestment zone plan does not impair
15 previously agreed-to bond contracts.

16 C. A transportation reinvestment zone created by a
17 municipality or to which a municipality has dedicated a gross
18 receipts tax increment may create a special fund into which the
19 state may directly deposit the gross receipts tax increments
20 dedicated to the transportation reinvestment zone by that
21 municipality. The balances in the fund may be used by the
22 transportation reinvestment zone for purposes allowed by the
23 statute authorizing the imposition of the tax by the
24 municipality. The fund shall be created for the purpose of
25 paying the principal of, the interest on and any premium due in

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1 connection with the bonds of, loans or advances to or
2 indebtedness incurred by, whether funded, refunded or
3 refinanced, in whole or in part, the transportation
4 reinvestment zone to complete a transportation reinvestment
5 zone project, or otherwise be used for permitted activities of
6 the Transportation Reinvestment Zone Act within the
7 transportation reinvestment zone. Up to seventy-five percent
8 of any of the following gross receipts tax increments may be
9 dedicated by the municipality:

10 (1) the municipal gross receipts tax
11 authorized pursuant to the Municipal Local Option Gross
12 Receipts Taxes Act;

13 (2) the municipal environmental services gross
14 receipts tax authorized pursuant to the Municipal Local Option
15 Gross Receipts Taxes Act;

16 (3) the municipal infrastructure gross
17 receipts tax authorized pursuant to the Municipal Local Option
18 Gross Receipts Taxes Act;

19 (4) the municipal capital outlay gross
20 receipts tax authorized pursuant to the Municipal Local Option
21 Gross Receipts Taxes Act;

22 (5) the municipal regional transit gross
23 receipts tax authorized pursuant to the Municipal Local Option
24 Gross Receipts Taxes Act;

25 (6) the quality of life gross receipts tax

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1 authorized pursuant to the Municipal Local Option Gross
2 Receipts Taxes Act;

3 (7) the municipal regional spaceport gross
4 receipts tax authorized pursuant to the Municipal Local Option
5 Gross Receipts Taxes Act;

6 (8) the municipal higher education facilities
7 gross receipts tax authorized pursuant to the Municipal Local
8 Option Gross Receipts Taxes Act;

9 (9) an amount distributed to municipalities
10 pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA 1978; and

11 (10) subject to the other provisions of the
12 Transportation Reinvestment Zone Act, the state gross receipts
13 tax.

14 D. A transportation reinvestment zone created by a
15 county or to which a county has dedicated a gross receipts tax
16 increment may create a special fund into which the state may
17 directly deposit the gross receipts tax increments dedicated to
18 the transportation reinvestment zone by that county. The
19 balances in the fund may be used by the transportation
20 reinvestment zone for purposes allowed by the statute
21 authorizing the imposition of the tax by the county. The fund
22 shall be created for the purpose of paying the principal of,
23 the interest on and any premium due in connection with the
24 bonds of, loans or advances to or indebtedness incurred by,
25 whether funded, refunded or refinanced, in whole or in part,

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1 the transportation reinvestment zone to complete a
2 transportation reinvestment zone project, or otherwise be used
3 for permitted activities of the Transportation Reinvestment
4 Zone Act within the transportation reinvestment zone. Up to
5 seventy-five percent of any of the following gross receipts tax
6 increments may be dedicated by the county:

7 (1) the local hospital gross receipts tax
8 authorized pursuant to the Local Hospital Gross Receipts Tax
9 Act;

10 (2) the county gross receipts tax authorized
11 pursuant to the County Local Option Gross Receipts Taxes Act;

12 (3) the special county hospital gross receipts
13 tax authorized pursuant to the County Local Option Gross
14 Receipts Taxes Act;

15 (4) the county fire protection excise tax
16 authorized pursuant to the County Local Option Gross Receipts
17 Taxes Act;

18 (5) the county environmental services gross
19 receipts tax authorized pursuant to the County Local Option
20 Gross Receipts Taxes Act;

21 (6) the county health care gross receipts tax
22 authorized pursuant to the County Local Option Gross Receipts
23 Taxes Act;

24 (7) the county infrastructure gross receipts
25 tax authorized pursuant to the County Local Option Gross

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1 Receipts Taxes Act;

2 (8) the county education gross receipts tax
3 authorized pursuant to the County Local Option Gross Receipts
4 Taxes Act;

5 (9) the county capital outlay gross receipts
6 tax authorized pursuant to the County Local Option Gross
7 Receipts Taxes Act;

8 (10) the county area emergency communications
9 and emergency medical and behavioral health services tax or
10 countywide emergency communications and emergency medical and
11 behavioral health services tax authorized pursuant to the
12 County Local Option Gross Receipts Taxes Act;

13 (11) the county regional transit gross
14 receipts tax authorized pursuant to the County Local Option
15 Gross Receipts Taxes Act;

16 (12) the quality of life gross receipts tax
17 authorized pursuant to the County Local Option Gross Receipts
18 Taxes Act;

19 (13) the county regional spaceport gross
20 receipts tax authorized pursuant to the County Local Option
21 Gross Receipts Taxes Act;

22 (14) the water and sanitation gross receipts
23 tax authorized pursuant to the County Local Option Gross
24 Receipts Taxes Act;

25 (15) the county correctional facility gross

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1 receipts tax authorized pursuant to the County Correctional
2 Facility Gross Receipts Tax Act;

3 (16) the amount distributed to counties
4 pursuant to Section 7-1-6.47 NMSA 1978; and

5 (17) subject to the other provisions of the
6 Transportation Reinvestment Zone Act, the state gross receipts
7 tax.

8 E. An imposition of a gross receipts tax increment
9 attributable to the imposition of a gross receipts tax by a
10 local government taxing authority may be dedicated for the
11 purpose of securing gross receipts tax increment bonds with the
12 agreement of the taxing authority, evidenced by a resolution
13 adopted by a majority vote of the governing body of that taxing
14 authority.

15 F. An imposition of a gross receipts tax increment
16 attributable to the imposition of the state gross receipts tax
17 within a transportation reinvestment zone less the
18 distributions made pursuant to Section 7-1-6.4 NMSA 1978 may be
19 dedicated for the purpose of securing gross receipts tax
20 increment bonds:

21 (1) with the approval of a majority of the
22 state board of finance in relation to a maximum principal
23 amount of less than ten million dollars (\$10,000,000) of bonds
24 secured by a gross receipts tax increment attributable to the
25 imposition of the state gross receipts tax so long as a

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1 majority of net bond proceeds are expected to be used for an
2 interstate, highway, street or road that is maintained by the
3 state or federal government; and

4 (2) with the approval of a majority of the
5 state board of finance and the legislature by approval of a
6 joint resolution in relation to bonds secured by a gross
7 receipts tax increment attributable to the imposition of the
8 state gross receipts tax that do not meet the requirements of
9 Paragraph (1) of this subsection.

10 G. For the purposes of securing gross receipts tax
11 increment bonds, no taxing authority shall approve the
12 dedication of more than seventy-five percent of a gross
13 receipts tax increment attributable to a specific type,
14 enactment or category of gross receipts taxes. A resolution of
15 a taxing authority dedicating a gross receipts tax increment
16 shall approve the transportation reinvestment zone plan, which
17 may be amended as set forth in the Transportation Reinvestment
18 Zone Act. A resolution of a taxing authority to dedicate a
19 gross receipts tax increment or to increase the dedication of a
20 gross receipts tax increment shall become effective only on
21 January 1 or July 1 of the calendar year; provided that no
22 dedication shall be effective without written notice having
23 been provided to the taxation and revenue department of the
24 dedication or increase in dedication at least one hundred
25 twenty days before the effective date of the dedication or

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1 increase.

2 H. The governing body of the jurisdiction in which
3 a transportation reinvestment zone has been established shall
4 timely notify the taxation and revenue department, the local
5 government division of the department of finance and
6 administration and the secretary of transportation when:

7 (1) a transportation reinvestment zone plan
8 has been approved that contains a provision for the allocation
9 of a gross receipts tax increment;

10 (2) any outstanding bonds of the
11 transportation reinvestment zone have been paid off; and

12 (3) the purposes of the transportation
13 reinvestment zone have otherwise been achieved.

14 SECTION 12. BONDING AUTHORITY--GROSS RECEIPTS TAX
15 INCREMENT.--

16 A. A transportation reinvestment zone may issue
17 gross receipts tax increment bonds, the pledged revenue for
18 which is a gross receipts tax increment, for any one or more of
19 the purposes authorized by the Transportation Reinvestment Zone
20 Act.

21 B. A transportation reinvestment zone may pledge
22 irrevocably any or all of a gross receipts tax increment
23 received by the transportation reinvestment zone to the payment
24 of the interest on and principal of the gross receipts tax
25 increment bonds for any of the purposes authorized in the

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1 Transportation Reinvestment Zone Act. A law that imposes or
2 authorizes the imposition of a municipal or county gross
3 receipts tax or that affects the municipal or county gross
4 receipts tax shall not be repealed, amended or otherwise
5 directly or indirectly modified in any manner to adversely
6 impair any outstanding gross receipts tax increment bonds that
7 may be secured by a pledge of any municipal or county gross
8 receipts tax increment, unless those outstanding bonds have
9 been discharged in full or provision has been fully made for
10 those bonds.

11 C. Revenues in excess of the annual principal and
12 interest due on gross receipts tax increment bonds secured by a
13 pledge of gross receipts tax increment revenue may be
14 accumulated in a debt service reserve account. The
15 transportation reinvestment zone may appoint a commercial bank
16 trust department to act as paying agent or trustee of the gross
17 receipts tax increment revenue and to administer the payment of
18 principal of and interest on the gross receipts tax increment
19 bonds.

20 D. A county may pledge irrevocably revenues
21 permitted to be pledged pursuant to Section 4-62-1 NMSA 1978 in
22 relation to gross receipts tax revenue bonds for the payment of
23 principal and interest due in connection with, and other
24 expenses related to, bonds issued by a transportation
25 reinvestment zone, otherwise subject to the provisions of

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1 Chapter 4, Article 62 NMSA 1978. A municipality may pledge
2 irrevocably revenues permitted to be pledged pursuant to
3 Section 3-31-1 NMSA 1978 in relation to gross receipts tax
4 revenue bonds for the payment of principal and interest due in
5 connection with, and other expenses related to, bonds issued by
6 a transportation reinvestment zone, otherwise subject to the
7 provisions of Chapter 3, Article 31 NMSA 1978.

8 E. Except as otherwise provided in the
9 Transportation Reinvestment Zone Act, gross receipts tax
10 increment bonds:

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

14 (2) may be subject to a prior redemption at
15 the transportation reinvestment zone's option at a time and
16 upon terms and conditions, with or without the payment of a
17 premium, as determined by the transportation reinvestment zone
18 board;

19 (3) may mature at any time not exceeding any
20 limitations set by the governing body in the resolution forming
21 the transportation reinvestment zone;

22 (4) may be serial in form and maturity, may
23 consist of one bond payable at one time or in installments or
24 may be in another form determined by the transportation
25 reinvestment zone board;

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

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

7 F. At a regular or special meeting, the
8 transportation reinvestment zone board may adopt a resolution
9 that:

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

12 (2) authorizes the issuance of gross receipts
13 tax increment bonds by an affirmative vote of a majority of all
14 the members of the transportation reinvestment zone board; and

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

18 SECTION 13. REFUNDING BONDS.--

19 A. A transportation reinvestment zone board that
20 has issued bonds in accordance with the Transportation
21 Reinvestment Zone Act may issue refunding bonds for the purpose
22 of refinancing, paying and discharging all or any part of
23 outstanding bonds for the:

24 (1) acceleration, deceleration or other
25 modification of the payment of the outstanding bonds,

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1 including, without limitation, any capitalization of any
2 interest thereon in arrears or about to become due for any
3 period not exceeding two years from the date of the refunding
4 bonds;

5 (2) purpose of reducing interest costs or
6 effecting other economies; or

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

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

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

13 B. A transportation reinvestment zone board may
14 pledge irrevocably for the payment of interest, principal and
15 premium, if any, on refunding bonds the appropriate pledged
16 revenues, which may be pledged to an original issue of bonds.

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

19 D. Refunding bonds shall be authorized by
20 resolution. Bonds that are refunded shall be paid at maturity
21 or on any permitted prior redemption date in the amounts, at
22 the time and places and, if called prior to maturity, in
23 accordance with any applicable notice provisions, all as
24 provided in the proceedings authorizing the issuance of the
25 refunded bonds or otherwise appertaining thereto, except for

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1 any such bond that is voluntarily surrendered for exchange or
2 payment by the holder or owner.

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

8 F. The proceeds of refunding bonds, including
9 accrued interest and premiums appertaining to the sale of
10 refunding bonds, shall be immediately applied to the retirement
11 of the bonds being refunded or placed in escrow in a commercial
12 bank or trust company that possesses and exercises trust powers
13 and that is a member of the federal deposit insurance
14 corporation. The proceeds shall be applied to the principal
15 of, interest on and any prior redemption premium due in
16 connection with the bonds being refunded; provided that the
17 refunding bond proceeds, including accrued interest and
18 premiums appertaining to a sale of refunding bonds, may be
19 applied to the establishment and maintenance of a reserve fund
20 and to the payment of expenses incidental to the refunding and
21 the issuance of the refunding bonds, the interest on those
22 bonds and the principal of those bonds, or both interest and
23 principal as the transportation reinvestment zone board
24 determines. This section does not require the establishment of
25 an escrow if the refunded bonds and the amounts necessary to

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1 retire the refunded bonds within that time are deposited with
2 the paying agent for the refunded bonds. Any such escrow shall
3 not necessarily be limited to proceeds of refunding bonds but
4 may include other money available for its purpose. Proceeds in
5 escrow pending such use may be invested or reinvested in bills,
6 certificates of indebtedness, notes or bonds that are direct
7 obligations of, or the principal and interest of which
8 obligations are unconditionally guaranteed by, the United
9 States or in certificates of deposit of banks that are members
10 of the federal deposit insurance corporation; provided that the
11 par value of the certificates of deposit is collateralized by a
12 pledge of obligations or by a pledge of payment that is
13 unconditionally guaranteed by the United States; and provided
14 further that the par value of those obligations is at least
15 seventy-five percent of the par value of the certificates of
16 deposit. Such proceeds and investments in escrow, together
17 with any interest or other income to be derived from any such
18 investment, shall be in an amount at all times sufficient as to
19 principal, interest, any prior redemption premium due and any
20 charges of the escrow agent payable therefrom to pay the bonds
21 being refunded as they become due at their respective
22 maturities or at any designated prior redemption date or dates
23 in connection with which the transportation reinvestment zone
24 shall exercise a prior redemption option. A purchaser of a
25 refunding bond issued is not responsible for the application of

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1 the proceeds by the transportation reinvestment zone or any of
2 its officers, agents or employees.

3 G. Refunding bonds may bear additional terms and
4 provisions as determined by the transportation reinvestment
5 zone subject to the limitations in this section relating to
6 original bond issues. Refunding bonds are not subject to the
7 provisions of any other statute.

8 H. Transportation reinvestment zone refunding
9 bonds:

10 (1) may have interest, principal value or any
11 part thereof payable at intervals or at maturity, as determined
12 by the transportation reinvestment zone board;

13 (2) may be subject to prior redemption at the
14 transportation reinvestment zone's option at a time or times
15 and upon terms and conditions with or without payment of
16 premium or premiums, as determined by the transportation
17 reinvestment zone board;

18 (3) may be serial in form and maturity or may
19 consist of a single bond payable in one or more installments or
20 may be in another form, as determined by the transportation
21 reinvestment zone board; and

22 (4) shall be exchanged for the bonds and any
23 matured unpaid interest being refunded at not less than par or
24 sold at public or negotiated sale at, above or below par and at
25 a price that results in a net effective interest rate that does

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1 not exceed the maximum permitted by the Public Securities Act.

2 I. At a regular or special meeting, a
3 transportation reinvestment zone board may adopt a resolution
4 by majority vote to authorize the issuance of the refunding
5 bonds.

6 SECTION 14. GENERAL BONDING AUTHORITY OF A TRANSPORTATION
7 REINVESTMENT ZONE--OTHER LIMITATIONS.--

8 A. The amount of indebtedness evidenced by the
9 gross receipts tax increment bonds issued pursuant to the
10 Transportation Reinvestment Zone Act shall not exceed the
11 estimated cost of the public improvements plus all costs
12 connected with the public infrastructure purposes and the
13 issuance and sale of bonds, including, without limitation,
14 formation costs, credit enhancement and liquidity support fees
15 and costs.

16 B. The indebtedness evidenced by the gross receipts
17 tax increment bonds shall not affect the general obligation
18 bonding capacity of the local government in which the
19 transportation reinvestment zone is located.

20 C. The indebtedness evidenced by the gross receipts
21 tax increment bonds shall be payable only from the special
22 funds into which are deposited the gross receipts tax
23 increments as set forth in the Transportation Reinvestment Zone
24 Act.

25 D. Bonds issued by a transportation reinvestment

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1 zone shall not be a general obligation of the state, the county
2 or the municipality in which the transportation reinvestment
3 zone is located and shall not pledge the full faith and credit
4 of the state, the county or the municipality in which the
5 transportation reinvestment zone is located. After the
6 retirement of all bonds issued pursuant to the transportation
7 reinvestment zone plan, any balance in a debt service reserve
8 account established for the payment of those bonds shall be
9 paid to the governments that have dedicated a gross receipts
10 tax increment to the transportation reinvestment zone in
11 proportion to the amount of the gross receipts tax increment
12 attributable to their dedication.

13 SECTION 15. EXEMPTION FROM TAXATION.--The bonds
14 authorized by the Transportation Reinvestment Zone Act and the
15 income from the bonds or any other instrument executed as
16 security for the bonds shall be exempt from all taxation by the
17 state or any political subdivision of the state.

18 SECTION 16. PROTECTION FROM IMPAIRMENT.--If the
19 provisions set forth in the Transportation Reinvestment Zone
20 Act impair the ability of a municipality, county or other
21 public body to meet its principal or interest payment
22 obligations for revenue bonds outstanding prior to the
23 effective date of the Transportation Reinvestment Zone Act that
24 are secured by the pledge of all or part of the municipality,
25 county or other public body's revenue gross receipts tax, then

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1 the amount otherwise payable to the transportation reinvestment
2 zone pursuant to the Transportation Reinvestment Zone Act shall
3 be paid instead to the municipality, county or public body in
4 an amount sufficient to meet any required payment.

5 SECTION 17. GROSS RECEIPTS TAX INCREMENT ACCOUNTING
6 PROCEDURES.--

7 A. A transportation reinvestment zone board shall
8 separately account for all revenues and indebtedness based on
9 gross receipts tax increments. The transportation reinvestment
10 zone board shall individually account for all gross receipts
11 tax increments.

12 B. For the purposes of Subsections A and B of
13 Section 7-1-8.9 NMSA 1978, a transportation reinvestment zone
14 may obtain the information that a municipality and a county are
15 entitled to receive and shall conform to the nondisclosure
16 requirements of that section.

17 C. In addition to the provisions in Section 7-1-8.9
18 NMSA 1978, in relation to gross receipts taxes reported with a
19 transportation reinvestment zone, the secretary of taxation and
20 revenue may disclose to a transportation reinvestment zone
21 board the amount of gross receipts taxes reported in relation
22 to the transportation reinvestment zone area, which disclosure
23 shall otherwise be subject to the provisions of Section 7-1-8
24 NMSA 1978.

25 SECTION 18. MODIFICATION OF TRANSPORTATION REINVESTMENT

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1 ZONE BOUNDARIES OR TRANSPORTATION REINVESTMENT ZONE PLAN.--

2 A. After the formation of a transportation
3 reinvestment zone, an area may be eliminated from the
4 transportation reinvestment zone area only by adoption of a
5 resolution of intention to do so by the governing body of all
6 local governments in which the transportation reinvestment zone
7 is located.

8 B. At any time after adoption of a resolution
9 creating a transportation reinvestment zone, an area may be
10 added to the transportation reinvestment zone upon action by
11 the governing body in which the proposed extension is located
12 and all other governing bodies in which the transportation
13 reinvestment zone is located.

14 C. The transportation reinvestment zone board may,
15 subject to the approval of the governing body of all local
16 governments in which the transportation reinvestment zone is
17 located and, in the event that any state gross receipts tax has
18 been dedicated, subject to the approval of the secretary of
19 transportation and the state board of finance, amend the
20 transportation reinvestment zone plan.

21 SECTION 19. TERMINATION OF TRANSPORTATION REINVESTMENT
22 ZONE.--

23 A. A transportation reinvestment zone shall be
24 terminated by a resolution of the transportation reinvestment
25 zone board that all of the following conditions exist:

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1 (1) all improvements owned by the
2 transportation reinvestment zone have been, or provision has
3 been made for all improvements to be, conveyed to a public
4 body;

5 (2) either the transportation reinvestment
6 zone does not have any outstanding bond obligations or the
7 municipality or county has assumed all of the outstanding bond
8 obligations of the transportation reinvestment zone; and

9 (3) all obligations of the transportation
10 reinvestment zone pursuant to any agreement with the
11 municipality or county have been satisfied.

12 B. A transportation reinvestment zone terminates on
13 December 31 of the tenth year after the year the zone was
14 formed, if before that date the zone has not entered into a
15 contract in order to construct transportation improvements or
16 public improvements, has not expended a gross receipts tax
17 increment or has not issued bonds.

18 C. The transportation reinvestment zone shall not
19 be terminated if any bonds of the transportation reinvestment
20 zone remain outstanding unless an amount of money sufficient,
21 together with investment income thereon, to make all payments
22 due on the bonds either at maturity or prior redemption has
23 been deposited with a trustee or escrow agent and pledged to
24 the payment and redemption of the bonds. The transportation
25 reinvestment zone may continue to operate after termination

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1 only as needed to collect money and make payments on any
2 outstanding bonds.

3 SECTION 20. OTHER DEDICATIONS OF GROSS RECEIPTS TAX
4 INCREMENT.--A transportation reinvestment zone shall not
5 include any areas that have already been incorporated as part
6 of a tax increment development district pursuant to the
7 provisions of the Tax Increment for Development Act.

8 SECTION 21. EXEMPTION.--Transportation reinvestment zones
9 and the provisions of the Transportation Reinvestment Zone Act
10 are exempt from the provisions of the Community Service
11 District Act and the Special District Procedures Act.

12 SECTION 22. EMERGENCY.--It is necessary for the public
13 peace, health and safety that this act take effect immediately.