BILL

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

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

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

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

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

SECTION 2. FINDINGS AND PURPOSE.--

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

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

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

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

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

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

B. "base adjusted gross receipts taxes" means:

(1) the total amount of revenue from gross receipts taxes imposed on adjusted taxable gross receipts for reporting periods covering business activity in the base year and designated by the governing body to be available as part of the gross receipts tax increment; provided that, in the first year that a gross receipts tax increment is dedicated, the amount of base adjusted gross receipts taxes shall be

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

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

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

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

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transportation reinvestment zone plan;

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

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

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

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

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

I. "municipality" means an incorporated city, town

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or village;

J. "permitted activity" means:

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

(2) demolition and removal of buildings and improvements;

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

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

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

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

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(7) obtaining grants for public improvements;

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

(1) completed transportation reinvestment zone projects;

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

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

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

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

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

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

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

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

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

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

(12) school sites and facilities with the

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

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

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

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

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

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

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

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

O. "transportation improvement" means publicly owned infrastructure that significantly improves the mobility of people within a transportation reinvestment zone and includes public improvements that are determined by the governing body to be advantageous to systematically develop in conjunction with the transportation improvement; "transportation improvement" includes all modes of transportation or transportation facilities, including pedestrian and bicycle transportation facilities that provide for a safer environment, address vehicle parking and include public space improvements, including:

(1) an interstate and interstate interchanges;

(2) a functionally classified arterial roadway and interchanges;

(3) main street improvements;

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(4) an airport or heliport;

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

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

(b) a transit center or station; and

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

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

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

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

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

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

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

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

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

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

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

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

(1) approve a transportation reinvestment zone plan;

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

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

(4) reference the Transportation Reinvestment Zone Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 5. CONTENTS OF A TRANSPORTATION REINVESTMENT ZONE PLAN.--A transportation reinvestment zone plan shall include:

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

B. a description of the proposed transportation

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

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

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

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

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

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

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

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

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

(2) the taxation and revenue department;

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

(4) the legislative finance committee; and

(5) the secretary of transportation.

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

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

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

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municipality or county.

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

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

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

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

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

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

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that are to be dedicated to the state.

SECTION 9. RECORDS--OPEN MEETINGS.--

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

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

(2) all resolutions;

(3) accounts showing all money received and disbursed;

(4) the annual budget; and

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

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

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

SECTION 10. TRANSPORTATION REINVESTMENT ZONE POWERS.--

A. In addition to other express or implied

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authority granted by law, a transportation reinvestment zone may:

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

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

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

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

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

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area;

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

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

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

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

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

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

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

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

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

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been paid or discharged.

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

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

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

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

SECTION 11. GROSS RECEIPTS TAX INCREMENT FINANCING.--

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

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

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

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

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

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

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

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

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

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

(6) the quality of life gross receipts tax

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Receipts Taxes Act;

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

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

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

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

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

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

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

(15) the county correctional facility gross

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

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

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

E. An imposition of a gross receipts tax increment attributable to the imposition of a gross receipts tax by a local government taxing authority may be dedicated for the purpose of securing gross receipts tax increment bonds with the agreement of the taxing authority, evidenced by a resolution adopted by a majority vote of the governing body of that taxing authority, for a period of up to ten years.

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

(1) with the approval of a majority of the state board of finance and the legislature by approval of a joint resolution in relation to a maximum principal amount of less than ten million dollars ($10,000,000) of bonds secured by a gross receipts tax increment attributable to the imposition

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of the state gross receipts tax so long as a majority of net bond proceeds are expected to be used for an interstate, highway, street or road that is maintained by the state or federal government; and

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

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

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twenty days before the effective date of the dedication or increase.

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

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

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

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

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

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

B. A transportation reinvestment zone may pledge irrevocably any or all of a gross receipts tax increment received by the transportation reinvestment zone to the payment of the interest on and principal of the gross receipts tax

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

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

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

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

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

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

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

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

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

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reinvestment zone board;

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

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

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

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

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

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

SECTION 13. REFUNDING BONDS.--

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

(1) acceleration, deceleration or other

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

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

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

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

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

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

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

D. Refunding bonds shall be authorized by resolution. Bonds that are refunded shall be paid at maturity or on any permitted prior redemption date in the amounts, at the time and places and, if called prior to maturity, in accordance with any applicable notice provisions, all as provided in the proceedings authorizing the issuance of the

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refunded bonds or otherwise appertaining thereto, except for any such bond that is voluntarily surrendered for exchange or payment by the holder or owner.

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

F. The proceeds of refunding bonds, including accrued interest and premiums appertaining to the sale of refunding bonds, shall be immediately applied to the retirement of the bonds being refunded or placed in escrow in a commercial bank or trust company that possesses and exercises trust powers and that is a member of the federal deposit insurance corporation. The proceeds shall be applied to the principal of, interest on and any prior redemption premium due in connection with the bonds being refunded; provided that the refunding bond proceeds, including accrued interest and premiums appertaining to a sale of refunding bonds, may be applied to the establishment and maintenance of a reserve fund and to the payment of expenses incidental to the refunding and the issuance of the refunding bonds, the interest on those bonds and the principal of those bonds, or both interest and principal as the transportation reinvestment zone board determines. This section does not require the establishment of

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an escrow if the refunded bonds and the amounts necessary to retire the refunded bonds within that time are deposited with the paying agent for the refunded bonds. Any such escrow shall not necessarily be limited to proceeds of refunding bonds but may include other money available for its purpose. Proceeds in escrow pending such use may be invested or reinvested in bills, certificates of indebtedness, notes or bonds that are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States or in certificates of deposit of banks that are members of the federal deposit insurance corporation; provided that the par value of the certificates of deposit is collateralized by a pledge of obligations or by a pledge of payment that is unconditionally guaranteed by the United States; and provided further that the par value of those obligations is at least seventy-five percent of the par value of the certificates of deposit. Such proceeds and investments in escrow, together with any interest or other income to be derived from any such investment, shall be in an amount at all times sufficient as to principal, interest, any prior redemption premium due and any charges of the escrow agent payable therefrom to pay the bonds being refunded as they become due at their respective maturities or at any designated prior redemption date or dates in connection with which the transportation reinvestment zone shall exercise a prior redemption option. A purchaser of a

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refunding bond issued is not responsible for the application of the proceeds by the transportation reinvestment zone or any of its officers, agents or employees.

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

H. Transportation reinvestment zone refunding bonds:

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

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

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

(4) shall be exchanged for the bonds and any matured unpaid interest being refunded at not less than par or sold at public or negotiated sale at, above or below par and at

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a price that results in a net effective interest rate that does not exceed the maximum permitted by the Public Securities Act.

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

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

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

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

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

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D. Bonds issued by a transportation reinvestment zone shall not be a general obligation of the state, the county or the municipality in which the transportation reinvestment zone is located and shall not pledge the full faith and credit of the state, the county or the municipality in which the transportation reinvestment zone is located. After the retirement of all bonds issued pursuant to the transportation reinvestment zone plan, any balance in a debt service reserve account established for the payment of those bonds shall be paid to the governments that have dedicated a gross receipts tax increment to the transportation reinvestment zone in proportion to the amount of the gross receipts tax increment attributable to their dedication.

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

SECTION 16. PROTECTION FROM IMPAIRMENT.--If the provisions set forth in the Transportation Reinvestment Zone Act impair the ability of a municipality, county or other public body to meet its principal or interest payment obligations for revenue bonds outstanding prior to the effective date of the Transportation Reinvestment Zone Act that are secured by the pledge of all or part of the municipality,

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county or other public body's revenue gross receipts tax, then the amount otherwise payable to the transportation reinvestment zone pursuant to the Transportation Reinvestment Zone Act shall be paid instead to the municipality, county or public body in an amount sufficient to meet any required payment.

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

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

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

C. In addition to the provisions in Section 7-1-8.9 NMSA 1978, in relation to gross receipts taxes reported with a transportation reinvestment zone, an employee of the taxation and revenue department may disclose to a transportation reinvestment zone board the amount of gross receipts taxes reported in relation to the transportation reinvestment zone area, which disclosure shall otherwise be subject to the provisions of Section 7-1-8 NMSA 1978.

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SECTION 18. MODIFICATION OF TRANSPORTATION REINVESTMENT ZONE BOUNDARIES OR TRANSPORTATION REINVESTMENT ZONE PLAN.--

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

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

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

SECTION 19. TERMINATION OF TRANSPORTATION REINVESTMENT ZONE.--

A. A transportation reinvestment zone shall be terminated by a resolution of the transportation reinvestment

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zone board that all of the following conditions exist:

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

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

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

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

C. The transportation reinvestment zone shall not be terminated if any bonds of the transportation reinvestment zone remain outstanding unless an amount of money sufficient, together with investment income thereon, to make all payments due on the bonds either at maturity or prior redemption has been deposited with a trustee or escrow agent and pledged to

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the payment and redemption of the bonds. The transportation reinvestment zone may continue to operate after termination only as needed to collect money and make payments on any outstanding bonds.

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

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

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

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