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SENATE BILL 174

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

LINDA M LOPEZ

AN ACT

RELATING TO TRANSPORTATION; ENACTING THE REGIONAL TRANSIT  
AUTHORITY ACT; AUTHORIZING THE CREATION OF REGIONAL TRANSIT  
AUTHORITIES; PROVIDING THE POWERS AND DUTIES OF A REGIONAL  
TRANSIT AUTHORITY; AUTHORIZING THE IMPOSITION OF THE REGIONAL  
TRANSIT GROSS RECEIPTS TAX; AUTHORIZING ISSUANCE OF REVENUE  
BONDS; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1  
through 27 of this act may be cited as the "Regional Transit  
Authority Act".

Section 2. [NEW MATERIAL] PURPOSE. -- The purpose of the  
Regional Transit Authority Act is to:

A. serve the public by providing for the creation  
of a comprehensive network of safe, efficient and affordable

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1 public transportation within a metropolitan area;

2 B. provide a public transit system to reduce the  
3 congestion of single-occupant motor vehicle traffic in a  
4 metropolitan area by providing transportation options for  
5 residents;

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

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

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

15 Section 3. [NEW MATERIAL] DEFINITIONS. --As used in the  
16 Regional Transit Authority Act:

17 A. "authority" means a regional transit authority  
18 created pursuant to the provisions of the Regional Transit  
19 Authority Act;

20 B. "authority area" means the physical territory  
21 of those municipalities and counties that are members of a  
22 regional transit authority;

23 C. "board" means a regional transit authority  
24 board;

25 D. "condemn" or "condemnation" means the

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1 acquisition of property or an interest in property by a  
2 regional transit authority through the exercise of the power  
3 of eminent domain;

4 E. "department" means the taxation and revenue  
5 department, the secretary of taxation and revenue or any  
6 employee of the department exercising authority lawfully  
7 delegated to that employee by the secretary;

8 F. "governing body" means the city council, city  
9 commission, board of commissioners, board of trustees, board  
10 of directors or other legislative body of a municipality or  
11 county in which the legislative powers of the public body are  
12 vested;

13 G. "high-occupancy vehicle" means a motor vehicle  
14 carrying more than one person, including buses, vans, cars and  
15 passenger trains;

16 H. "metropolitan area" means an area consisting of  
17 at least two contiguous counties, one of which has a principal  
18 municipality with a population in excess of fifteen thousand  
19 or has a principal municipality with a population of no more  
20 than five thousand that currently operates a public transit  
21 system;

22 I. "motor vehicle" means a self-propelled vehicle  
23 suitable for operation on highways;

24 J. "municipality" means any incorporated city,  
25 town or village, whether incorporated under general act,

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1 special act or special charter;

2 K. "person" means an individual or any other legal  
3 entity;

4 L. "principal municipality" means the municipality  
5 of largest population within a metropolitan area;

6 M. "public transit system" means a public transit  
7 network that transports passengers by means of high-occupancy  
8 vehicles that is created and administered by an authority and  
9 that is eligible for federal transit administration funds; and

10 N. "regional transit gross receipts tax" means the  
11 gross receipts tax imposed pursuant to the Regional Transit  
12 Authority Act.

13 Section 4. [NEW MATERIAL] CREATION OF TRANSIT  
14 AUTHORITY--NOTICE AND HEARING.--

15 A. The governing body of the principal  
16 municipality in a metropolitan area may institute proceedings  
17 to create an authority in the manner prescribed in the  
18 Regional Transit Authority Act.

19 B. The proposed authority shall consist of the  
20 principal municipality and the entire territory of at least  
21 one of the following:

22 (1) the county in which the principal  
23 municipality is located;

24 (2) a county adjacent to the county in which  
25 the principal municipality is located;

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1 (3) a municipality in the county where the  
2 principal municipality is located;

3 (4) a municipality in a county adjacent to  
4 the county in which the principal municipality is located; or

5 (5) a county or municipality in an adjoining  
6 state, pursuant to a joint powers agreement.

7 C. Based on a finding that a metropolitan area  
8 lacks adequate public transportation infrastructure and  
9 services, the governing body of the principal municipality  
10 may, by a majority vote, adopt a resolution proposing to  
11 create an authority. The resolution shall include the  
12 territorial area of the proposed authority and the time and  
13 place of the public hearing on the proposal.

14 D. A copy of the resolution shall be sent by  
15 registered mail to each governing body included in the  
16 proposed authority area. Notice of the public hearing and a  
17 copy of the resolution shall be published by each county and  
18 municipality once a week for two consecutive weeks in at least  
19 one newspaper of general circulation in the metropolitan area.  
20 The first publication shall be not less than fifteen days  
21 prior to the date fixed for the hearing. Copies of the  
22 resolution shall be made available upon request to interested  
23 persons in the metropolitan area.

24 E. At the public hearing, representatives of  
25 municipalities and counties in the metropolitan area and other

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1 interested persons may present evidence for or against the  
2 creation of the proposed authority.

3 F. If, after hearing all evidence at the public  
4 hearing, the governing body of the principal municipality  
5 determines that the creation of an authority is necessary for  
6 the public health and welfare, the governing body shall adopt  
7 a resolution calling a confirmation election for the purpose  
8 of submitting the proposed creation of an authority to the  
9 voters. The ballot shall accurately describe the territorial  
10 area to be included in the authority and authorize the  
11 imposition of a regional transit authority gross receipts tax.

12 G. Each governing body included within the area of  
13 the proposed authority shall, within sixty days of the public  
14 hearing, approve or disapprove by resolution its inclusion.  
15 Failure to adopt a resolution in favor of inclusion shall  
16 result in that jurisdiction being excluded from the  
17 confirmation election. At least one municipality or county in  
18 addition to the principal municipality shall adopt a  
19 resolution approving inclusion before a confirmation election  
20 may be held.

21 H. If, after hearing all evidence at the public  
22 hearing, the governing body of the principal municipality  
23 determines that the creation of the authority is not necessary  
24 for the public health and welfare, it shall not create the  
25 authority, and the creation of an authority shall not be

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1 considered again for a period of at least one year.

2 I. Nothing in the Regional Transit Authority Act  
3 shall be construed to prevent or impair the operation of a  
4 public transit system in existence prior to the passage of  
5 that act.

6 Section 5. [NEW MATERIAL] REGIONAL TRANSIT AUTHORITY  
7 BOARD--MEMBERSHIP AND TERMS OF OFFICE.--

8 A. An interim board representing the governing  
9 bodies that have approved their inclusion in the proposed  
10 authority shall be appointed within thirty days following the  
11 adoption of those resolutions. Interim board members shall  
12 serve until January 1 of the year following the general  
13 election at which the first regular board members are elected.  
14 The interim board shall have the same proportional  
15 representation as the elected regular board and shall have the  
16 same powers and duties as the regular board. Each interim  
17 board member serves at the pleasure of the appointing  
18 governing body.

19 B. The first regular board shall be elected at a  
20 special election held concurrently with the general election  
21 following the confirmation election provided for in Section 6  
22 of the Regional Transit Authority Act. At least sixty-three  
23 days prior to the regular board election, the interim board  
24 shall determine by lot from among its membership which half of  
25 the regular board or, if the board consists of an odd number

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1 of members, which members shall serve initial two- and four-  
2 year terms and shall notify the secretary of state of that  
3 determination. Thereafter, board members shall serve terms of  
4 four years.

5 C. A board shall consist of at least five members.  
6 If a total of two counties or municipalities participate in an  
7 authority, the principal municipality shall have three of the  
8 five board members. If a total of three counties or  
9 municipalities participate in an authority, the principal  
10 municipality shall have one more than the total number of  
11 board seats held by the other two participants. If a total of  
12 four or more counties or municipalities participate in the  
13 authority, each participant shall have at least one member.  
14 Each participant shall have one additional member if, based on  
15 the last two-year supplemental federal decennial census, that  
16 participant has a population between fifty thousand one and  
17 one hundred thousand residents or two additional members if  
18 that participant has a population between one hundred thousand  
19 one and one hundred fifty thousand residents. A municipality  
20 or county shall have one additional member for each additional  
21 fifty thousand residents, however, no participant shall have  
22 majority membership on the board, unless there are three or  
23 fewer participants. For purposes of representation on the  
24 board, the population of incorporated municipalities within a  
25 county shall not be counted toward the population of the

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1 county.

2 D. Vacancies on the board shall be filled for the  
3 remainder of the term in the manner provided for the original  
4 appointment of the interim board. Upon expiration of the term  
5 of office of each member of the board, a member may seek  
6 office for the succeeding term.

7 E. Board members shall be reimbursed for per diem  
8 and mileage as provided for public officers in the Per Diem  
9 and Mileage Act.

10 F. Board members shall be residents and qualified  
11 voters of the counties or municipalities that they represent.

12 G. Board members shall select annually from among  
13 their membership a chairman, a vice chairman, a secretary and  
14 other officers as they deem necessary. No member of the board  
15 or officer of the authority shall have pecuniary interest in  
16 or benefit directly or indirectly from any contract or  
17 agreement to which the authority is a party.

18 H. The board shall meet at least once a month for  
19 the purpose of transacting the business of the authority. In  
20 addition to regularly scheduled meetings, the chairman may  
21 call special meetings as may be necessary upon written notice  
22 at least ten days prior to the meeting. A majority of members  
23 constitutes a quorum of the board for the purpose of  
24 conducting its business and exercising its powers.

25 I. A member of the board may be removed from

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1 office for nonfeasance, misfeasance or malfeasance in office  
2 by the governing body that it represents or by a majority of  
3 the board.

4 Section 6. [NEW MATERIAL] CONFIRMATION ELECTION. --

5 A. Within thirty days of its appointment, the  
6 interim board shall adopt a resolution calling for a  
7 confirmation election to be held no later than one hundred  
8 eighty days from the date of that resolution. The  
9 confirmation election shall be conducted by the county or  
10 municipal clerk of each participating governing body to  
11 determine whether a majority of the voters approves the  
12 creation of an authority and the imposition of a regional  
13 transit gross receipts tax to fund the creation of a regional  
14 transit system.

15 B. The question submitted to the voters at the  
16 confirmation election shall be:

17 "Shall the creation of the \_\_\_\_\_ (name of the authority),  
18 consisting of \_\_\_\_\_ (names of counties and municipalities to be  
19 included), be confirmed and shall the board of the authority  
20 be authorized to impose a regional transit gross receipts tax,  
21 in the amount of \_\_\_\_\_ percent of gross receipts not to  
22 exceed one-half of one percent of the gross receipts on  
23 persons engaging in business in the authority area, to fund a  
24 public transit system and provide public transit services in  
25 the metropolitan area?

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1                    \_\_\_\_\_ Yes                    \_\_\_\_\_ No".

2                    C. The election shall be conducted so that votes  
3 are separately tabulated and canvassed in each county and  
4 municipality where the election is held.

5                    D. A resident of a municipality that is included  
6 in the proposed authority shall vote only in the municipality  
7 where he resides.

8                    E. Those counties or municipalities where a  
9 majority of the voters voting on the question votes against  
10 the creation of the authority and the levy of the proposed tax  
11 shall not become part of the authority. A municipality that  
12 votes against the creation of the authority shall not become  
13 part of the authority if the county in which that municipality  
14 is located votes to join the authority. Those counties or  
15 municipalities where a majority of the voters voting on the  
16 question votes in favor of the creation of the authority and  
17 the levy of the proposed tax shall remain part of the  
18 authority, except as provided in Subsection F of this section.

19                    F. If the vote is not favorable in the principal  
20 municipality that initiated the confirmation election and in  
21 at least one municipality or county, the interim board shall  
22 be terminated, and the authority shall not be created.

23                    G. The expense of calling and conducting the  
24 confirmation election shall be borne by the principal  
25 municipality. However, if the election confirms the creation

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1 of an authority, the authority shall reimburse the principal  
2 municipality for all expenditures made in the course of  
3 calling and conducting the election within twelve months after  
4 the date on which collection of the tax for the authority  
5 begins.

6 H. At any time after the confirmation election,  
7 the board may again call an election to increase the regional  
8 transit gross receipts tax levy for the purpose of expanding  
9 transit services, subject to the provisions of the Regional  
10 Transit Authority Act limiting the aggregate rate of the  
11 regional transit gross receipts tax. The expense of calling  
12 and conducting the election shall be borne by the authority.  
13 If a majority of the voters voting on the question votes in  
14 favor of the increase, that additional gross receipts tax  
15 shall be imposed. If a majority of the voters votes against  
16 the increase in the tax, the additional gross receipts tax  
17 shall not be imposed, and the authority shall not again  
18 propose to increase the tax for a period of at least two years  
19 from the date of that election.

20 Section 7. [NEW MATERIAL] POWERS OF THE AUTHORITY. --

21 A. An authority, when created and confirmed, shall  
22 constitute a public body corporate and politic, exercising  
23 governmental functions and having the power necessary to carry  
24 out the purposes of the Regional Transit Authority Act.

25 B. An authority may sue and be sued in all courts

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1 of competent jurisdiction.

2 C. An authority may adopt and use a seal of the  
3 authority.

4 D. An authority may fix the fiscal year for the  
5 authority.

6 E. An authority may acquire property by grant,  
7 purchase, gift, devise, lease or otherwise and may hold, use,  
8 sell, lease or dispose of real and personal property as it  
9 deems necessary for the full exercise of any of its powers  
10 pursuant to the provisions of the Regional Transit Authority  
11 Act.

12 F. An authority may acquire, construct, complete,  
13 develop, own, operate and maintain a public transit system  
14 within its boundaries and both within and without the  
15 boundaries of municipalities. For the purpose of the system,  
16 the authority shall have the right to use the streets,  
17 highways and other public ways and, with permission of the  
18 owner, to relocate or alter the construction of any street,  
19 highway, other public way, electric and telephone lines and  
20 properties, pipelines, conduits and other properties, whether  
21 publicly or privately owned, if deemed necessary by the  
22 authority in the construction, reconstruction, repair,  
23 maintenance and operation of the system. Any damage that may  
24 occur to the property shall be borne by the authority.

25 G. An authority may enter into contracts, leases

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1 and agreements with and accept grants and loans from the  
2 federal government, its departments and agencies, the state  
3 and any of its political subdivisions. A revenue bond  
4 indenture may provide limitations upon the exercise of the  
5 powers stated in this section, and the limitations shall apply  
6 as long as any revenue bonds issued pursuant to this indenture  
7 are outstanding and unpaid.

8 H. An authority may enter into a joint powers  
9 agreement with a governing body of an adjoining state within a  
10 metropolitan area.

11 I. An authority may impose, for the construction,  
12 operation and maintenance of a public transit system, a gross  
13 receipts tax on any person engaging in business in the  
14 authority area, which shall not exceed an aggregate rate of  
15 one-half of one percent.

16 J. An authority may sell, lease, convey or  
17 otherwise dispose of any of its rights, interests or real or  
18 personal properties or surplus material not needed for the  
19 efficient operation and maintenance of the public transit  
20 system.

21 K. An authority may lease the public transit  
22 system or any part of the system or may contract for the use  
23 or operation of the system by an operator.

24 L. An authority may enter into agreements with any  
25 other public or private utility, communication system, common

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1 carrier or transportation system for the joint use of their  
2 respective facilities or properties within the authority and  
3 to establish routes, joint fares or transfer of passengers.

4 M. An authority shall establish and maintain  
5 rates, fares, tolls, charges, rents or other compensation for  
6 the use of the facilities of the public transit system  
7 constructed, operated and maintained by the authority, which  
8 shall be reasonable and nondiscriminatory, and shall, together  
9 with the regional transit gross receipts tax and bonds issued  
10 by the authority, be adequate to meet its financial  
11 obligations.

12 N. An authority shall adopt rules governing the  
13 use, operation and maintenance of the public transit system  
14 and shall determine all routings.

15 O. An authority may contract with a governing body  
16 to provide public transit services to an area outside the  
17 boundaries of the authority.

18 P. An authority may acquire by purchase real  
19 property and equipment necessary to develop a public transit  
20 system, including station stops and complexes, maintenance and  
21 operating facilities, transfer locations, bus stations and  
22 stops, intermodal facilities and office buildings.

23 Q. An authority may borrow money, issue bonds and  
24 enter into contracts and finance leasing.

25 R. An authority may invest funds of the authority

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1 in direct or indirect obligations of the United States, the  
2 state or any of its political subdivisions.

3 Section 8. [NEW MATERIAL] POWER OF EMINENT DOMAIN. --The  
4 authority may exercise in the state the power of eminent  
5 domain, within the authority and in the manner provided by law  
6 for the condemnation of private property for public use, and  
7 may take any property necessary to carry out the purposes of  
8 the Regional Transit Authority Act.

9 Section 9. [NEW MATERIAL] ADDITION OR WITHDRAWAL OF  
10 TERRITORY BY AN AUTHORITY. --

11 A. After the creation of an authority, a governing  
12 body adjacent to but not part of that authority may, by  
13 resolution, propose to join the authority, determine the  
14 territorial area to become a part of that authority and fix  
15 the time and place of a public hearing on the proposal, as  
16 provided for in Section 4 of the Regional Transit Authority  
17 Act. If, after hearing all evidence at the public hearing,  
18 the governing body determines that joining the authority is  
19 necessary for the public health and welfare, the governing  
20 body shall adopt a resolution calling a confirmation election  
21 for the purpose of submitting the question of joining the  
22 authority to the voters. If a majority of voters voting on  
23 the question votes in favor of joining, the municipal or  
24 county clerk shall certify the results of the election to the  
25 board, and the area shall become a part of the authority.

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1           B. If a municipality that is a member of an  
2 authority lawfully annexes additional territory that was not a  
3 part of the authority at the time of its creation, the annexed  
4 territory shall become part of the authority.

5           C. The governing body of a county or municipality  
6 that is a member of an authority may withdraw from the  
7 authority by adopting a resolution to submit to the voters the  
8 question: "Should (name of county or municipality) withdraw  
9 from the (name of authority)?" If a majority of voters  
10 voting on the question votes in favor of withdrawal, the  
11 municipal or county clerk shall certify the results of the  
12 election to the board, and the membership of the governing  
13 body in the authority shall cease. The regional transit gross  
14 receipts tax shall continue to be imposed upon persons  
15 conducting business within the area that withdrew until either  
16 the bonds that are outstanding at the time of withdrawal are  
17 paid in full or the withdrawing governing body negotiates an  
18 agreement with the authority to provide funds sufficient to  
19 pay its pro rata share of the debt service on bonds previously  
20 issued to finance capital improvements and to acquire  
21 authority property lying within the bounds of the county or  
22 municipality that withdrew but outside the new boundaries of  
23 the authority. Real property owned by the authority within  
24 the boundaries of a withdrawing governing body shall remain  
25 the property of the authority. The provisions of withdrawal

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1 shall be negotiated and agreed to by the board, the governing  
2 body and the department; however, a municipality with a  
3 population of ten thousand or less shall not be obligated for  
4 payment on outstanding bonds existing at the time of  
5 withdrawal.

6 D. If the principal municipality votes to withdraw  
7 from the authority, the authority shall cease to exist. The  
8 regional transit gross receipts tax shall continue to be  
9 imposed until the obligations of the authority are resolved to  
10 the satisfaction of the department.

11 E. After a confirmation election, additional  
12 elections to join or withdraw shall be paid for by the  
13 governing body that initiates the election.

14 Section 10. [NEW MATERIAL] REGIONAL TRANSIT GROSS  
15 RECEIPTS TAX--IMPOSITION--RATE AUTHORIZED.--

16 A. After the voters have approved by confirmation  
17 election the creation of the authority and the imposition of  
18 the regional transit gross receipts tax, the interim authority  
19 board shall, by resolution, impose a regional transit gross  
20 receipts tax on any person engaging in business in the  
21 authority area for the privilege of engaging in business. The  
22 rate of the regional transit gross receipts tax shall not  
23 exceed the lesser of one-half of one percent or a lower rate  
24 approved by the voters either in the confirmation election,  
25 or, if a subsequent election has been held pursuant to

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1 Subsection H of Section 6 of the Regional Transit Authority  
2 Act, the amount from that election. The tax shall be known as  
3 the "regional transit gross receipts tax".

4 B. The tax imposed pursuant to this section may be  
5 imposed in one-sixteenth, one-eighth, one-fourth or one-half  
6 of one percent increments or any number of such increments by  
7 the enactment of one or more resolutions, but the total  
8 regional transit gross receipts tax rate imposed by all  
9 resolutions shall not exceed an aggregate rate of one-half of  
10 one percent.

11 C. The board, at the time of enacting a resolution  
12 imposing or changing the tax authorized in Subsection A of  
13 this section, shall dedicate the revenue for the management,  
14 construction or operation of the public transit system or for  
15 specific public transit projects or services of the authority  
16 pursuant to the Regional Transit Authority Act.

17 D. Any law that imposes or authorizes the  
18 imposition of a regional transit gross receipts tax or that  
19 affects that tax, or any law supplemental to or otherwise  
20 pertaining to that tax, shall not be repealed or amended or  
21 otherwise directly or indirectly modified in such a manner as  
22 to impair adversely any outstanding regional transit revenue  
23 bonds that may be secured by a pledge of that tax, unless  
24 those outstanding revenue bonds have been discharged in full  
25 or provisions have been fully made for the discharge.

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1           Section 11.   [NEW MATERIAL] REGIONAL TRANSIT GROSS  
2 RECEIPTS TAX--EFFECTIVE DATE OF RESOLUTION--COMPLIANCE WITH  
3 GROSS RECEIPTS AND COMPENSATING TAX ACT AND REQUIREMENTS OF  
4 DEPARTMENT--SUBMISSION OF COPY TO DEPARTMENT. --

5           A.   A resolution imposing, amending or repealing a  
6 regional transit gross receipts tax or an increment of the tax  
7 pursuant to the Regional Transit Authority Act shall be  
8 effective on July 1 or January 1, whichever date occurs first,  
9 after the expiration of at least three months from the date  
10 the adopted resolution is mailed or delivered to the  
11 department. The resolution shall include the effective date.

12           B.   A resolution imposing a regional transit gross  
13 receipts tax pursuant to the Regional Transit Authority Act  
14 shall adopt by reference the same definitions and the same  
15 provisions relating to exemptions and deductions as are  
16 contained in the Gross Receipts and Compensating Tax Act then  
17 in effect and as it may be amended from time to time.

18           C.   The board shall impose the regional transit  
19 gross receipts tax by adopting the model resolution with  
20 respect to the tax furnished to the authority by the  
21 department. A resolution that does not conform substantially  
22 to the model resolution of the department is invalid.

23           D.   A certified copy of the resolution imposing or  
24 repealing a regional transit gross receipts tax authorized by  
25 the Regional Transit Authority Act or changing the tax rate

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1 imposed shall be mailed or delivered to the department within  
2 five days after the resolution is adopted.

3 Section 12. [NEW MATERIAL] REGIONAL TRANSIT GROSS  
4 RECEIPTS TAX--SPECIFIC EXEMPTIONS.--No regional transit gross  
5 receipts tax authorized by the Regional Transit Authority Act  
6 shall be imposed on the gross receipts arising from  
7 transporting persons or property for hire by railroad, motor  
8 vehicle, air transportation or any other means from one point  
9 within the authority to another point outside the authority,  
10 nor shall the tax be imposed on direct satellite broadcasting  
11 or on gross receipts that are exempt by federal law.

12 Section 13. [NEW MATERIAL] REGIONAL TRANSIT GROSS  
13 RECEIPTS TAX--COLLECTION BY DEPARTMENT--TRANSFER OF PROCEEDS--  
14 DEDUCTION.--

15 A. The department shall collect the regional  
16 transit gross receipts tax imposed pursuant to the provisions  
17 of the Regional Transit Authority Act in the same manner and  
18 at the same time it collects the state gross receipts tax,  
19 except as provided in Section 26 of that act.

20 B. The department may deduct an amount not to  
21 exceed three percent of the regional transit gross receipts  
22 tax collected pursuant to the provisions of the Regional  
23 Transit Authority Act as a charge for the administrative costs  
24 of collection. That amount shall be remitted to the state  
25 treasurer for deposit in the state general fund each month.

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1           C. The department shall transfer to each authority  
2 for which it is collecting a regional transit gross receipts  
3 tax pursuant to the provisions of the Regional Transit  
4 Authority Act the amount of the tax collected for that  
5 authority, less any disbursement for administrative charges  
6 made pursuant to Subsection B of this section, tax credits,  
7 refunds and the payment of interest applicable to the tax.  
8 The transfer to the authority shall be made within the month  
9 following the month in which the tax is collected.

10           Section 14. [NEW MATERIAL] REGIONAL TRANSIT GROSS  
11 RECEIPTS TAX--ADMINISTRATION AND ENFORCEMENT OF ACT.--

12           A. The department shall interpret the provisions  
13 of the Regional Transit Authority Act with respect to the  
14 regional transit gross receipts tax authorized by that act.

15           B. The department shall administer and enforce the  
16 collection of the regional transit gross receipts tax  
17 authorized pursuant to the Regional Transit Authority Act, and  
18 the Tax Administration Act applies to the administration and  
19 enforcement of the regional transit gross receipts tax.

20           Section 15. [NEW MATERIAL] BONDS OF THE AUTHORITY--USE--  
21 SECURITY.--

22           A. The authority may issue and sell revenue bonds  
23 from time to time in principal amounts it considers necessary  
24 to provide sufficient funds for any purpose of the Regional  
25 Transit Authority Act, including:

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1 (1) the acquisition of real and personal  
2 property whether by purchase or by exercising the power of  
3 eminent domain;

4 (2) the purchase, construction,  
5 reconstruction, repair, equipment, improvement or extension of  
6 a public transit system;

7 (3) the payment, funding, refinancing or  
8 refunding of the principal of or interest or redemption  
9 premiums on bonds and other indebtedness issued or incurred by  
10 the authority whether the bonds or interest to be paid,  
11 funded, refinanced or refunded have or have not become due;

12 (4) the establishment or increase of reserves  
13 or sinking funds to secure or to pay principal, premium, if  
14 any, or interest on bonds and reserves relating to the  
15 operation, maintenance and repair of a public transit system;  
16 and

17 (5) all other costs or expenses of the  
18 authority necessary or convenient to carry out its corporate  
19 purposes and powers.

20 B. Except as provided in Subsection D of this  
21 section, all bonds or other obligations issued by the  
22 authority shall be obligations of the authority payable solely  
23 from, and the authority is authorized to pledge, transfer and  
24 assign for the payment of the bonds:

25 (1) all or part of the net receipts of the

Underscored material = new  
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1 regional transit gross receipts tax that is dedicated for the  
2 purpose for which the bonds are issued;

3 (2) any other revenue, income, money or funds  
4 of the authority from any source available for the payment of  
5 the bonds; or

6 (3) any grant, subsidy or contribution from  
7 the United States or any of its agencies or instrumentalities  
8 that may be used for the payment of bonds of the authority.

9 C. The bonds and other obligations of the  
10 authority shall not create an obligation, debt or liability of  
11 the state or any political subdivision of the state, including  
12 any governing body included in the authority. No breach of  
13 any pledge, obligation or agreement of the authority shall  
14 impose a pecuniary liability or a charge upon the general  
15 credit or taxing power of the state or any political  
16 subdivision of the state, including any governing body  
17 included in the authority.

18 D. Revenues received by a municipality with a  
19 population of ten thousand or less, as determined by the last  
20 supplemental federal decennial census, from the levy of the  
21 regional transit gross receipts tax pursuant to the Regional  
22 Transit Authority Act shall not be pledged for bonds issued by  
23 an authority but may be used for the operation and maintenance  
24 of the authority.

25 Section 16. [NEW MATERIAL] BONDS-- AUTHORIZATION FOR

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1 ISSUANCE--TERMS AND CONDITIONS. --

2 A. Bonds of the authority shall be authorized by  
3 resolution of the board and may be issued in one or more  
4 series. The bonds shall be issued in the denominations, and  
5 have terms and maturities provided for in the resolution, and  
6 shall otherwise bear the terms and conditions as specified in  
7 the resolution.

8 B. The bonds issued by the authority may be sold  
9 at any time at private or public sale at prices agreed upon by  
10 the authority. The authority may contract with the New Mexico  
11 finance authority for issuance of bonds for short-term  
12 investment of funds.

13 C. Bonds may be issued pursuant to the Regional  
14 Transit Authority Act without obtaining the consent of any  
15 agency of the state and without any other proceeding or  
16 condition other than the proceedings or conditions specified  
17 in that act.

18 D. The bonds issued by the authority are  
19 negotiable instruments for all purposes of the Uniform  
20 Commercial Code, subject only to the provisions of the bonds  
21 for registration.

22 Section 17. [NEW MATERIAL] TRUST AGREEMENTS--CREDIT  
23 FACILITIES--RELATED DOCUMENTS. --

24 A. The authority may enter into trust agreements  
25 to better secure the payment of any bonds issued pursuant to

Underscored material = new  
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1 the Regional Transit Authority Act with any corporate trustee  
2 and provide in the trust agreements for the rights and  
3 limitations on rights of the holders and owners of the bonds.

4 B. The authority may enter into credit facilities  
5 to provide additional security for its bonds or for a primary  
6 or contingent source of payment of or reimbursement for the  
7 principal of or interest or any redemption premium on the  
8 bonds, or for the purchase price upon a tender or call of the  
9 bonds. The authority may enter into contracts for the  
10 purchase or repurchase of its bonds.

11 C. The authority may enter into reimbursement  
12 agreements, credit agreements, escrow agreements and other  
13 contracts and agreements as are necessary or appropriate for  
14 its bonds.

15 Section 18. [NEW MATERIAL] REFUNDING BONDS. --The  
16 authority is authorized to issue its bonds for the purpose of  
17 refunding any outstanding bonds, including the payment of any  
18 redemption premiums and any interest accrued or to accrue to  
19 the date of redemption of the outstanding bonds. Until the  
20 proceeds of the refunding bonds are applied to the purchase or  
21 retirement of the outstanding bonds or the redemption of the  
22 outstanding bonds, the proceeds may be placed in escrow and be  
23 invested and reinvested. The interest, income and profits, if  
24 any, earned or realized on any such investment may, at the  
25 discretion of the authority, also be applied to the payment of

Underscored material = new  
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1 the outstanding bonds to be refunded. After the terms of any  
2 escrow agreement have been satisfied, any balance remaining in  
3 escrow, including investment earnings, may be returned to the  
4 authority for use by it in any lawful manner. All refunding  
5 bonds shall be issued and secured and shall be subject to the  
6 provisions of the Regional Transit Authority Act in the same  
7 manner and to the same extent as any other bonds issued  
8 pursuant to the Regional Transit Authority Act.

9 Section 19. [NEW MATERIAL] PUBLICATION OF NOTICE--  
10 VALIDATION-- LIMITATION OF ACTION. --

11 A. After adoption of a resolution authorizing the  
12 issuance of bonds, the authority shall publish notice of the  
13 adoption of the resolution once in a newspaper of general  
14 circulation in the area in which the authority is located.

15 B. After the passage of thirty days from the time  
16 of publication, any action attacking the validity of the  
17 proceedings or taken by the authority in the authorization and  
18 issuance of the bonds described in the notice is perpetually  
19 barred.

20 Section 20. [NEW MATERIAL] MANAGEMENT. --

21 A. Responsibility for the construction, management  
22 and operation of an authority and for control of the property  
23 belonging to an authority shall be vested in its board. The  
24 board may employ qualified persons deemed necessary by the  
25 board to conduct the affairs of the authority, including a

Underscored material = new  
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1 general manager, bookkeeper, auditor and engineer.

2 B. The board shall provide for an annual audit of  
3 its affairs by an independent certified public accountant.

4 Section 21. [NEW MATERIAL] ANNUAL BUDGET. --Prior to the  
5 beginning of a fiscal year, the board shall adopt an annual  
6 operating budget that specifies major expenditures by type and  
7 amount. The board shall furnish the local government division  
8 of the department of finance and administration with a copy of  
9 the budget for review and approval no later than June 1 of  
10 each year.

11 Section 22. [NEW MATERIAL] RULES AND REGULATIONS. --

12 A. The board may adopt and enforce reasonable  
13 rules and regulations necessary to conduct its business,  
14 including:

15 (1) securing and maintaining safety and  
16 efficiency in the operation and maintenance of its facilities;

17 (2) governing the use of the authority's  
18 facilities and services by the public and the payment of  
19 fares;

20 (3) regulating privileges on any land,  
21 easement, right of way or other property owned or controlled  
22 by the authority; and

23 (4) employing qualified persons as necessary  
24 to carry out the purpose of the Regional Transit Authority  
25 Act.

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1           B. Regulations adopted by the board shall be  
2 published once a week for two consecutive weeks in a newspaper  
3 of general circulation in the area where the authority is  
4 located. Rules and regulations shall become effective ten  
5 days following the last publication.

6           Section 23. [NEW MATERIAL] CONTRACTS FOR CONSTRUCTION,  
7 GOODS OR SERVICES. --The board shall establish purchasing  
8 guidelines, including rules governing a competitive bid  
9 process; provided that the board shall not secure a contract  
10 that is not subject to competitive bidding requirements or  
11 that is for the purchase of real property or for professional  
12 services until an announcement that a contract is being  
13 considered is posted in a prominent place in the main office  
14 of the authority for at least two weeks before the contract is  
15 awarded.

16           Section 24. [NEW MATERIAL] CONDUCT OF ELECTIONS. --

17           A. Except for the initial election necessary to  
18 confirm the creation of an authority, board elections shall be  
19 conducted at the time of the general election under the  
20 direction of the municipal or county clerk and in accordance  
21 with the provisions of the Election Code.

22           B. Notice of the election shall be given by  
23 publication.

24           C. All polling places shall be within the area  
25 included within the authority.

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1           D. The secretary of the authority shall provide to  
2 each municipal or county clerk supplies and assistance  
3 necessary to conduct an election for membership on the board,  
4 as authorized by the Regional Transit Authority Act.

5           Section 25. [NEW MATERIAL] EXEMPTION FROM TAXES. --The  
6 property, revenues and income of an authority and the interest  
7 on bonds issued by an authority shall be exempt from all taxes  
8 levied by the state and its political subdivisions.

9           Section 26. [NEW MATERIAL] WHEN TAX NOT COLLECTED BY  
10 DEPARTMENT. --If a regional transit authority gross receipts  
11 tax has not been imposed by June 30, 2005, then the department  
12 shall not collect or distribute a tax for a regional transit  
13 authority created after that date. If a tax has been imposed  
14 before that date, then this section shall not apply.

15           Section 27. [NEW MATERIAL] CONSTRUCTION OF ACT. --The  
16 Regional Transit Authority Act shall be liberally construed to  
17 carry out the purpose of that act.

18           Section 28. A new section of the Tax Administration Act  
19 is enacted to read:

20           "[NEW MATERIAL] TRANSFER--REVENUES FROM REGIONAL TRANSIT  
21 GROSS RECEIPTS TAXES. --A transfer pursuant to Section 7-1-6.1  
22 NMSA 1978 shall be made to each regional transit authority for  
23 which the department is collecting a regional transit gross  
24 receipts tax in an amount equal to the net receipts  
25 attributable to the regional transit gross receipts tax

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1 imposed by that authority pursuant to the Regional Transit  
2 Authority Act less any deductions for administrative costs  
3 determined and made by the department pursuant to the  
4 provisions of that act."

5 Section 29. Section 6-14-2 NMSA 1978 (being Laws 1970,  
6 Chapter 10, Section 2, as amended) is amended to read:

7 "6-14-2. DEFINITIONS.--As used in the Public Securities  
8 Act:

9 A. "net effective interest rate" means the  
10 interest rate based on the actual price paid to a public body  
11 for its public securities, calculated to maturity according to  
12 standard tables of bond values;

13 B. "public body" means this state or any  
14 department, board, agency or instrumentality of the state, any  
15 county, city, town, village, school district, other district,  
16 educational institution or any other governmental agency or  
17 political subdivision of the state; and

18 C. "public securities" means any bonds, notes,  
19 warrants or other obligations now or hereafter authorized to  
20 be issued by any public body pursuant to the provisions of any  
21 general or special law enacted by the legislature, but does  
22 not include bonds, notes, warrants or other obligations issued  
23 pursuant to:

- 24 (1) the Industrial Revenue Bond Act;
- 25 (2) the County Improvement District Act;

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- 1                                   (3) Sections 3-33-1 through 3-33-43 NMSA
- 2                                   1978;
- 3                                   (4) the Pollution Control Revenue Bond Act;
- 4                                   (5) the County Pollution Control Revenue Bond
- 5                                   Act;
- 6                                   (6) the County Industrial Revenue Bond Act;
- 7                                   (7) the Metropolitan Redevelopment Code;
- 8                                   (8) the Supplemental Municipal Gross Receipts
- 9                                   Tax Act;
- 10                                  (9) the Regional Transit Authority Act;
- 11                                  [~~(9)~~] (10) the Hospital Equipment Loan Act;
- 12                                  or
- 13                                  [~~(10)~~] (11) the New Mexico Finance Authority
- 14                                  Act. "

15                   Section 30. Section 6-18-4 NMSA 1978 (being Laws 1983,  
16                   Chapter 161, Section 4, as amended) is amended to read:

17                   "6-18-4. DEFINITIONS.--As used in the Public Securities  
18                   Short-Term Interest Rate Act, unless the context otherwise  
19                   requires:

20                                A. "bond" means any bond, debenture, note,  
21                                refunding or renewal bond or note, warrant or other security  
22                                evidencing an obligation authorized to be issued by a public  
23                                body pursuant to any provision of law of this state, including  
24                                the Public Securities Short-Term Interest Rate Act;

25                                B. "governing body" means the city council or



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1 other body or officer of a public body in which the  
2 legislative powers are vested;

3 C. "indebtedness" means any debt evidenced by a  
4 bond issued by a public body pursuant to any law of this state  
5 that constitutes a debt for the purposes of Section 12 or 13  
6 of Article 9 of the constitution of New Mexico and the  
7 issuance of which must be submitted to a vote of the qualified  
8 electors of the public body pursuant to those sections and any  
9 bond issued for the purpose of paying or refunding any such  
10 bond;

11 D. "bond legislation" means an ordinance or a  
12 resolution or other appropriate enactment adopted by a  
13 governing body [~~of a public body~~] providing for the  
14 authorization or sale of bonds and any trust agreement, credit  
15 agreement, letter of credit, reimbursement agreement or other  
16 credit facility, dealer agreement, issuing or paying agent  
17 agreement, purchase commitment agreement, escrow agreement,  
18 remarketing agreement, index agent agreement or other  
19 agreement with respect to the bonds to which the public body  
20 or trustee for the bonds is a party; and

21 E. "public body" means any municipality, any  
22 county, any school district, any special district, any H class  
23 county [~~located in New Mexico~~], the New Mexico hospital  
24 equipment loan council, state institutions enumerated in  
25 Section 6-13-2 NMSA 1978, the water quality control

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1 commission, the state board of finance, the New Mexico finance  
2 authority, a regional transit authority created pursuant to  
3 the Regional Transit Authority Act or the state."

4 Section 31. EFFECTIVE DATE.--The effective date of the  
5 provisions of this act is July 1, 1998.

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1 FORTY-THIRD LEGISLATURE  
2 SECOND SESSION, 1998  
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6 January 30, 1998  
7

8 Mr. President:  
9

10 Your COMMITTEES' COMMITTEE, to whom has been referred  
11

12 SENATE BILL 174  
13

14 has had it under consideration and finds same to be GERMANE, in  
15 accordance with constitutional provisions, and thence referred to the  
16 CORPORATIONS & TRANSPORTATION COMMITTEE.  
17

18  
19 Respectfully submitted,  
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25 \_\_\_\_\_  
Manny M. Aragon, Chairman

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

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(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

S0174CC1

1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

SB 174/a

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4  
5 February 7, 1998

6  
7 Mr. President:

8  
9 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to whom  
10 has been referred

11  
12 SENATE BILL 174

13  
14 has had it under consideration and reports same with recommendation  
15 that it DO PASS, amended as follows:

- 16  
17 1. On page 3, line 13, after "a" insert "passenger train or a".  
18  
19 2. On page 3, line 14, after "vans" strike the remainder of the  
20 line, strike line 15 up to the semicolon and insert in lieu thereof  
21 "and cars".  
22  
23 3. On page 8, strike lines 6 through 10 in their entirety,  
24 strike line 11 up to the period and insert in lieu thereof "In any  
25

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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

SCORC/SB 174

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event, the principal municipality shall not have a majority of the board members."

4. On page 18, line 2, after "however" strike the remainder of the line, strike line 3 through "less" and insert in lieu thereof "a county or municipality with a population of one hundred thousand or less, where a municipality is not the principal municipality,".

5. On page 21, line 20, after "amount" strike the remainder of the line, and strike line 21 up through "percent".

6. On page 21, line 24, before the period, insert "that is comparable to the amount deducted for other county or municipal local option gross receipts taxes".

7. On page 24, line 18, after "Revenues" strike the remainder of

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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

SCORC/SB 174

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the line, strike line 19 through "thousand" and insert in lieu thereof "derived from business activity in a county or municipality of one hundred thousand".

8. On page 24, line 20, after the comma insert "where a municipality is not the principal municipality," and thence referred to the WAYS & MEANS COMMITTEE.

Respectfully submitted,

\_\_\_\_\_  
Roman M. Maes, III, Chairman

Adopted \_\_\_\_\_

Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

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SCORC/SB 174

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Date \_\_\_\_\_

The roll call vote was 7 For 0 Against

Yes: 7

No: 0

Excused: Griego, Howes, McKibben

Absent: None

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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

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SCORC/SB 174

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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

February 9, 1998

Mr. President:

Your WAYS AND MEANS COMMITTEE, to whom has been referred

SENATE BILL 174, as amended

has had it under consideration and reports same with recommendation  
that it DO PASS.

Respectfully submitted,

. 121940. 1

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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

SCORC/SB 174

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\_\_\_\_\_  
Carlos R. Cisneros, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 5 For 2 Against

Yes: 5

No: Jennings, Wilson

Excused: Duran, McSorley

Absent: None

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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

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SCORC/SB 174

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FORTY-THIRD LEGISLATURE

SECOND SESSION

February 10, 1998

SENATE FLOOR AMENDMENT number \_\_\_\_\_ to SENATE BILL 174, as amended

Amendment sponsored by Senator Linda M Lopez

1. On page 14, line 15, strike "one-half" and insert in lieu thereof "one-fourth".

2. On page 18, line 23, strike "one-half" and insert in lieu thereof "one-fourth".

3. On page 19, line 5, strike the second comma and insert in lieu thereof "or", and strike "or one-half".

4. On page 19, line 9, strike "one-half" and insert in lieu thereof "one-fourth".

FORTY-THIRD LEGISLATURE  
SECOND SESSION

SB 174, aa

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\_\_\_\_\_  
Linda M Lopez

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

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