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HOUSE BILL 229

**54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

INTRODUCED BY

Candy Spence Ezzell

AN ACT

RELATING TO SPECIAL DISTRICTS; CREATING THE REGIONAL AIR CENTER  
SPECIAL ECONOMIC DISTRICT ACT; ALLOWING FOR THE FORMATION OF  
INDUSTRIAL AIR CENTER SPECIAL ECONOMIC DISTRICTS AND  
AUTHORITIES TO GOVERN THE DISTRICTS; PROVIDING POWERS AND  
DUTIES HJC→; PROVIDING A PROPERTY TAX EXEMPTION←HJC.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--HJC→**This**←HJC  
HJC→**Sections 1 through 10 of this 2019**←HJC act may be  
cited as the "Regional Air Center Special Economic District  
Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the  
Regional Air Center Special Economic District Act:

A. "authority" means the governing body of a  
district; and

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1           B. "district" means an industrial air center  
2 special economic district governed by an authority.

3           SECTION 3. [NEW MATERIAL] CREATION OF A DISTRICT.--A  
4 municipality and the county in which the municipality is  
5 located may agree to form a district:

6           A. the initial boundaries of which lie within the  
7 jurisdiction of the municipality, the county or both;

8           B. that includes an industrial air center composed  
9 of infrastructure associated with a former United States  
10 military base; and

11           C. that consists of land and real property formerly  
12 associated with the former United States military base and  
13 other land and real property made part of the district.

14           SECTION 4. [NEW MATERIAL] CREATION OF AN AUTHORITY--  
15 MEMBERS--TERMS--QUALIFICATIONS.--

16           A. A municipality and county that form a district  
17 shall create an authority to govern the district that consists  
18 of an odd number of members, but not fewer than five or more  
19 than nine in number.

20           B. The terms of the members shall be reasonably  
21 staggered. Of the members initially appointed, that number of  
22 members closest to, but not more than, one-half of the  
23 membership shall serve for two years. The term of all other  
24 members shall be four years.

25           C. A member shall not serve more than two

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1 consecutive four-year terms on the authority. A member who has  
2 served two consecutive four-year terms on the authority shall  
3 not serve another term until after four years following the  
4 second term have elapsed.

5 D. The authority may authorize a county that  
6 borders the county that created the district or a municipality  
7 or an Indian nation, tribe or pueblo in a county that borders  
8 the county that created the district to become part of the  
9 authority. The municipality and county that created the  
10 district and any subsequently accepted entities, as set forth  
11 in this subsection, may change the membership of the authority,  
12 up to the maximum allowed by Subsection A of this section, and  
13 change the terms of the members to allow the newly accepted  
14 entity to appoint one or more members to the authority.

15 E. An elected official shall not serve on the  
16 authority. A member of the authority shall not receive a  
17 salary or other compensation from the authority, but the  
18 authority may reimburse any reasonable expenses incurred by a  
19 member in conducting the business of the authority.

20 F. Before appointing a person to the authority, an  
21 appointing entity shall first determine that the person:

22 (1) has experience in the field of aviation,  
23 business, economic development, finance, commercial real estate  
24 investment or accounting; or

25 (2) possesses other qualifications that the

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1 entity determines are necessary or appropriate for carrying out  
2 the duties of the authority; and

3 (3) has no direct substantial conflict of  
4 interest in the business or operation of the authority.

5 G. An authority member shall abstain from an  
6 authority vote if the matter voted on poses a conflict of  
7 interest for the member. A member or employee of the authority  
8 shall not:

9 (1) acquire a financial interest in a new or  
10 existing business venture or business property if the member or  
11 employee believes or has reason to believe that the financial  
12 interest will be directly affected by an official act conducted  
13 in that membership or employment capacity;

14 (2) use confidential information acquired by  
15 virtue of membership on or employment by the authority for the  
16 member's or employee's or another person's private gain; or

17 (3) as a person with a financial or other  
18 interest in a business that is party to a contract, enter into  
19 a contract with the authority without there being public notice  
20 of the contract, a competitive bidding process for entry into  
21 the contract and full disclosure of that financial or other  
22 interest.

23 H. The governing body that appoints a member to an  
24 authority may remove the member if it determines that the  
25 member:

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1 (1) willfully neglected or refused to perform  
2 an official duty;

3 (2) has violated the policies or procedures  
4 adopted by the authority; or

5 (3) has developed a direct, substantial  
6 conflict of interest in the business of the authority.

7 SECTION 5. [NEW MATERIAL] AUTHORITY--POWERS--DUTIES.--

8 A. An authority is a political subdivision of the  
9 state that may, in accordance with law and to effectuate the  
10 purposes of the district it governs:

11 (1) have perpetual existence;

12 (2) sue and be sued;

13 (3) adopt bylaws, policies and procedures;

14 (4) employ a director, who may employ staff as  
15 necessary to administer the authority;

16 (5) fix the time and place of meetings and the  
17 method of providing notice of the meetings;

18 (6) make and pass orders and resolutions  
19 necessary for governing and managing the authority and  
20 executing the powers of the authority;

21 (7) adopt and use a seal;

22 (8) create and define the duties of advisory  
23 committees;

24 (9) enter into contracts and agreements;

25 (10) borrow money and issue bonds;

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1 (11) pledge all or a portion of its revenue to  
2 the payment of its bonds;

3 (12) issue refunding revenue bonds to  
4 refinance, pay or discharge all or part of its outstanding  
5 revenue bonds;

6 (13) impose liens;

7 (14) acquire, dispose of or encumber real or  
8 personal property or interests in real or personal property,  
9 including leases and easements;

10 (15) manage the land and property constituting  
11 and associated with the district, including by imposing rental  
12 charges and fees for the use of that land and property;

13 (16) HJC → **sixty days after delivering**  
14 **written notice to the municipality and county that formed**  
15 **the district,** ← HJC exercise the power of eminent domain within  
16 the boundaries of the district as provided by law for the  
17 condemnation of private property for public use with just  
18 compensation;

19 (17) sell, transfer or convey real or personal  
20 property or interests in real or personal property acquired by  
21 the authority;

22 (18) alter the boundaries of the district with  
23 the approval of the affected municipality or county;

24 (19) construct and maintain airport  
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1 facilities;

2 (20) establish standards and long-term  
3 development plans;

4 (21) apply to a public or private source for a  
5 loan, grant, guarantee or other type of financial assistance;

6 (22) exercise the rights and powers necessary  
7 or incidental to or implied by the specific powers granted by  
8 this section; and

9 (23) by resolution, delegate to a member or  
10 agent of the authority any of its powers, except the power to:

11 (a) adopt authority policies or  
12 procedures;

13 (b) initiate or continue legal action;

14 (c) establish policies on the use of  
15 revenue;

16 (d) acquire real or personal property or  
17 interests in real or personal property;

18 (e) expand the district; or

19 (f) issue bonds.

20 B. An authority shall:

21 (1) govern the district;

22 (2) adopt rules to govern its conduct,  
23 including standards and procedures for calling emergency  
24 meetings and a conflicts-of-interest policy;

25 (3) provide meaningful opportunities for

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1 public input on its policymaking;

2 (4) accept title to the real and personal  
3 property within the area constituting the district's initial  
4 boundaries;

5 (5) use district property to manage airport  
6 operations, create jobs and foster economic development in all  
7 areas it deems appropriate and in the public welfare; and

8 (6) comply with all applicable laws,  
9 ordinances or rules enacted by the municipality or county  
10 having jurisdiction over the district's land or real property.

11 SECTION 6. [NEW MATERIAL] REVENUE BONDS--EXEMPTION FROM  
12 TAXATION.--

13 A. To effectuate the purposes of the district it  
14 governs, an authority may issue revenue bonds to:

15 (1) encourage the location of commercial,  
16 research or industrial or other enterprises to a district; or

17 (2) acquire, purchase, lease, construct or  
18 improve commercial, research or industrial sites or buildings  
19 or make other capital improvements, including the construction  
20 or maintenance of energy or pollution abatement or control  
21 facilities, as necessary.

22 B. An authority may issue special facility revenue  
23 bonds backed by a long-term lease of the facility to finance a  
24 specific tenant facility.

25 C. The bonds authorized by the Regional Air Center

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1 Special Economic District Act, the income from those bonds,  
2 mortgages or other security instruments executed as security  
3 for those bonds, lease agreements authorized by the Regional  
4 Air Center Special Economic District Act and revenue derived  
5 from a lease or sale by an authority are exempt from taxation  
6 by the state and its subdivisions.

7 HJC→SECTION 7. [NEW MATERIAL] BONDING AUTHORITY.--

8 A. A district may issue revenue bonds, the  
9 pledged revenue for which shall be fees, charges, lease  
10 payments, installment sale payments or other revenue  
11 sources by a project for any one or more of the purposes  
12 authorized by the Regional Air Center Special Economic  
13 District Act.

14 B. A district may pledge irrevocably any or all  
15 of the revenue received by the district to the payment of  
16 the interest on and principal of revenue bonds for any of  
17 the purposes authorized in the Regional Air Center Special  
18 Economic District Act.

19 C. Revenues in excess of the annual principal  
20 and interest due on revenue bonds secured by a pledge of  
21 revenue may be accumulated in a debt service reserve  
22 account. The district may appoint a commercial bank trust  
23 department to act as paying agent or trustee of the  
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1 revenues and to administer the payment of principal of and  
2 interest on the bonds.

3 D. Except as otherwise provided in the Regional  
4 Air Center Special Economic District Act, revenue bonds:

5 (1) may have interest, principal value or  
6 any part thereof payable at intervals or at maturity as  
7 may be determined by the authority;

8 (2) may be subject to a prior redemption  
9 at the district's option at a time and upon terms and  
10 conditions, with or without the payment of a premium, as  
11 determined by the authority;

12 (3) may mature at any time not exceeding  
13 thirty years after the date of issuance;

14 (4) may be serial in form and maturity,  
15 may consist of one bond payable at one time or in  
16 installments or may be in another form determined by the  
17 authority;

18 (5) shall be sold for cash at, above or  
19 below par and at a price that results in a net effective  
20 interest rate that does not exceed the maximum permitted  
21 by the Public Securities Act and the Public Securities  
22 Short-Term Interest Rate Act; and  
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1 (6) may be sold at public or negotiated  
2 sale.

3 E. At a regular or special meeting, the  
4 authority may adopt a resolution that:

5 (1) declares the necessity for issuing  
6 revenue bonds;

7 (2) authorizes the issuance of revenue  
8 bonds by an affirmative vote of a majority of all the  
9 members of the authority; and

10 (3) designates the sources of revenues to  
11 be pledged to the repayment of the revenue bonds.  
12

13 SECTION 8. [NEW MATERIAL] REFUNDING BONDS.--

14 A. A district that has issued bonds in  
15 accordance with the Regional Air Center Special Economic  
16 District Act may issue refunding bonds for the purpose of  
17 refinancing, paying and discharging all or any part of  
18 outstanding bonds for the:

19 (1) acceleration, deceleration or other  
20 modification of the payment of the outstanding bonds,  
21 including, without limitation, any capitalization of any  
22 interest thereon in arrears or about to become due for any  
23 period not exceeding two years from the date of the  
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1 refunding bonds;

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

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

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

8 (b) concerning the outstanding bonds  
9 or facilities relating to the outstanding bonds.  
10

11 B. A district may pledge irrevocably for the  
12 payment of interest, principal and premium, if any, on  
13 refunding bonds the appropriate pledged revenues, which  
14 may be pledged to an original issue of bonds.

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

17 D. Refunding bonds shall be authorized by  
18 resolution. Bonds that are refunded shall be paid at  
19 maturity or on any permitted prior redemption date in the  
20 amounts, at the time and places and, if called prior to  
21 maturity, in accordance with any applicable notice  
22 provisions, all as provided in the proceedings authorizing  
23 the issuance of the refunded bonds or otherwise  
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1 appertaining thereto, except for any such bond that is  
2 voluntarily surrendered for exchange or payment by the  
3 holder or owner.

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

9 F. The proceeds of refunding bonds, including  
10 accrued interest and premiums appertaining to the sale of  
11 refunding bonds, shall be immediately applied to the  
12 retirement of the bonds being refunded or placed in escrow  
13 in a commercial bank or trust company that possesses and  
14 exercises trust powers and that is a member of the federal  
15 deposit insurance corporation. The proceeds shall be  
16 applied to the principal of, interest on and any prior  
17 redemption premium due in connection with the bonds being  
18 refunded; provided that the refunding bond proceeds,  
19 including accrued interest and premiums appertaining to a  
20 sale of refunding bonds, may be applied to the  
21 establishment and maintenance of a reserve fund and to the  
22 payment of expenses incidental to the refunding and the  
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1 issuance of the refunding bonds, the interest on those  
2 bonds and the principal of those bonds, or both interest  
3 and principal as the authority determines. This section  
4 does not require the establishment of an escrow if the  
5 refunded bonds and the amounts necessary to retire the  
6 refunded bonds within that time are deposited with the  
7 paying agent for the refunded bonds. Any such escrow  
8 shall not necessarily be limited to proceeds of refunding  
9 bonds but may include other money available for its  
10 purpose. Proceeds in escrow pending such use may be  
11 invested or reinvested in bills, certificates of  
12 indebtedness, notes or bonds that are direct obligations  
13 of, or the principal and interest of which obligations are  
14 unconditionally guaranteed by, the United States or in  
15 certificates of deposit of banks that are members of the  
16 federal deposit insurance corporation; provided that the  
17 par value of the certificates of deposit is collateralized  
18 by a pledge of obligations or by a pledge of payment that  
19 is unconditionally guaranteed by the United States; and  
20 further provided that the par value of those obligations  
21 is at least seventy-five percent of the par value of the  
22 certificates of deposit. Such proceeds and investments in  
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1 escrow, together with any interest or other income to be  
2 derived from any such investment, shall be in an amount at  
3 all times sufficient as to principal, interest, any prior  
4 redemption premium due and any charges of the escrow agent  
5 payable therefrom to pay the bonds being refunded as they  
6 become due at their respective maturities or at any  
7 designated prior redemption date or dates in connection  
8 with which the municipality shall exercise a prior  
9 redemption option. A purchaser of a refunding bond issued  
10 is not responsible for the application of the proceeds by  
11 the district or any of its officers, agents or employees.  
12

13 G. Refunding bonds may bear additional terms  
14 and provisions as determined by the district subject to  
15 the limitations in this section relating to original bond  
16 issues. Refunding bonds are not subject to the provisions  
17 of any other statute.  
18

19 H. District refunding bonds:

20 (1) may have interest, principal value or  
21 any part thereof payable at intervals or at maturity, as  
22 determined by the authority;

23 (2) may be subject to prior redemption at  
24 the district's option at a time or times and upon terms  
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1 and conditions with or without payment of premium or  
2 premiums, as determined by the authority;

3 (3) may be serial in form and maturity or  
4 may consist of a single bond payable in one or more  
5 installments or may be in another form, as determined by  
6 the authority; and

7 (4) shall be exchanged for the bonds and  
8 any matured unpaid interest being refunded at not less  
9 than par or sold at public or negotiated sale at, above or  
10 below par and at a price that results in a net effective  
11 interest rate that does not exceed the maximum permitted  
12 by the Public Securities Act.

13 I. At a regular or special meeting, an  
14 authority may adopt a resolution by majority vote to  
15 authorize the issuance of the refunding bonds.

16 SECTION 9. [NEW MATERIAL] BONDS NOT OBLIGATION OF  
17 THE STATE.--Except as otherwise provided in the Regional  
18 Air Center Special Economic District Act, all bonds or  
19 other obligations issued pursuant to that act are payable  
20 solely from the revenues of the district that may be  
21 pledged to the payment of such obligations, and the bonds  
22 or other obligations shall not create an obligation, debt  
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1 or liability of the state or any other of its political  
2 subdivisions. No breach of any pledge, obligation or  
3 agreement or a district shall impose a pecuniary liability  
4 or a charge upon the general credit or taxing power of the  
5 state or any other of its political subdivisions.

6 SECTION 10. [NEW MATERIAL] DISSOLUTION.--The  
7 municipality and county that formed the district and any  
8 counties, municipalities, Indian nations, tribes or  
9 pueblos that have become part of the district may, by  
10 unanimous vote, agree to unwind and dissolve the district  
11 and dismiss the authority members if they find the  
12 district is not meeting the needs of the community in  
13 managing airport operations, creating jobs or fostering  
14 economic development. The assets and all debts and  
15 obligations of the district shall be transferred to and  
16 assumed by the county or municipality as set forth in the  
17 unwinding or dissolution agreement.

18 SECTION 11. Section 7-36-3 NMSA 1978 (being Laws  
19 1975, Chapter 218, Section 1, as amended by Laws 2006,  
20 Chapter 90, Section 1 and by Laws 2006, Chapter 92,  
21 Section 1) is amended to read:

22 "7-36-3. INDUSTRIAL REVENUE BOND, POLLUTION CONTROL  
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1 BOND, ~~[AND]~~ ECONOMIC DEVELOPMENT BOND AND REGIONAL AIR  
2 CENTER SPECIAL ECONOMIC DISTRICT BOND PROJECT PROPERTY--  
3 HEALTH-RELATED EQUIPMENT--TAX STATUS.--

4 A. Property interests of a lessee in project  
5 property held under a lease from a county or a  
6 municipality under authority of an industrial revenue bond  
7 or pollution control revenue bond act, ~~[or]~~ the Statewide  
8 Economic Development Finance Act or the Regional Air  
9 Center Special Economic District Act are exempt from  
10 property taxation for as long as there is an outstanding  
11 bonded indebtedness under the terms of the revenue bonds  
12 issued for the acquisition of the project property, but in  
13 no event for a period of more than thirty years from the  
14 date of execution of the first lease of the project to the  
15 lessee by the county or municipality.  
16

17 B. Property interests of a person, other than a  
18 public utility, arising out of the purchase of a project  
19 authorized by the Industrial Revenue Bond Act, the County  
20 Industrial Revenue Bond Act, the Pollution Control Revenue  
21 Bond Act, ~~[or]~~ the Statewide Economic Development Finance  
22 Act or the Regional Air Center Special Economic District  
23 Act are exempt from property taxation for as long as the  
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1 project purchaser remains liable to the project seller for  
2 any part of the purchase price, but not to exceed thirty  
3 years from the date of execution of the sale agreement.

4 C. Property interests of a participating health  
5 facility in health-related equipment purchased, acquired,  
6 leased, financed or refinanced with the proceeds of bonds  
7 issued under the Hospital Equipment Loan Act are exempt  
8 from property taxation for as long as the participating  
9 health facility remains liable for any amount under any  
10 lease, loan or other agreement securing the bonds, but not  
11 to exceed thirty years from the date the bonds were issued  
12 for the health-related equipment.

14 D. The exemptions from property taxation under  
15 this section are not cumulative; provided, however, that  
16 the exemptions may be applied consecutively if subsequent  
17 exemptions relate to the financing of a new project or new  
18 health-related equipment."←HJC