

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; ENACTING THE SPACEPORT DEVELOPMENT ACT; CREATING THE SPACEPORT AUTHORITY; PROVIDING FOR BONDING AUTHORITY; CREATING THE SPACEPORT AUTHORITY FUND; MAKING AN APPROPRIATION.

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

Section 1. SHORT TITLE.--This act may be cited as the "Spaceport Development Act".

Section 2. PURPOSE.--The purpose of the Spaceport Development Act is to:

A. encourage and foster development of the state and its cities and counties by developing spaceport facilities in New Mexico;

B. actively promote and assist public and private sector infrastructure development to attract new industries and businesses, thereby creating new job opportunities in the state;

C. create the statutory framework that will enable the state to design, finance, construct, equip and operate spaceport facilities necessary to ensure the timely, planned and efficient development of a southwest regional spaceport; and

D. promote educational involvement in spaceport activities and education and training of the workforce to

develop the skills needed for spaceport operations.

Section 3. DEFINITIONS.--As used in the Spaceport Development Act:

A. "authority" means the spaceport authority;

B. "project" means any land, building or other improvements acquired as part of a spaceport or associated with a spaceport or to aid commerce in connection with a spaceport and all real and personal property deemed necessary in connection with the spaceport;

C. "space vehicle" means any vehicle capable of being flown in space or launching a payload into space; and

D. "spaceport" means any facility in New Mexico at which space vehicles may be launched or landed, including all facilities and support infrastructure related to launch, landing or payload processing.

Section 4. SPACEPORT AUTHORITY CREATED--MEMBERSHIP.--

A. The "spaceport authority" is created. The authority is a state agency and is administratively attached to the economic development department.

B. The authority shall consist of seven voting and two nonvoting members, six of whom shall be appointed by the governor with the consent of the senate; provided that one of the appointed members shall be a resident of Sierra county.

No more than three appointed members shall belong to the same political party. The seventh member shall be the secretary of

economic development or the secretary's designee. The lieutenant governor shall serve as a nonvoting ex-officio member. The executive director of the authority shall serve as a nonvoting member. The chair may appoint a nonvoting advisory committee to provide advice and recommendations on authority matters.

C. The members appointed by the governor shall be residents of the state and shall serve for terms of four years, except for the initial appointees who shall be appointed so that the terms are staggered after initial appointment. Initial appointees shall serve terms as follows: two members for two years, two members for three years and two members for four years.

D. Appointed voting members of the authority shall be reimbursed for per diem and mileage in accordance with the provisions of the Per Diem and Mileage Act that apply to nonsalaried public officers, unless a different provision of that act applies to a specific member, in which case that member shall be paid under the applicable provision. Members and advisors shall receive no other compensation, perquisite or allowance for serving as a member of or advisor to the authority.

E. The secretary of economic development or the secretary's designee shall serve as the chair of the authority. Authority members shall elect any other officers

from the membership that the authority determines appropriate.

F. The chair, four other authority voting members appointed by the chair and the executive director of the authority shall constitute the spaceport authority executive committee. The committee shall have powers and duties as delegated to it by the authority.

G. If a vacancy occurs among the appointed voting members of the authority, the governor shall appoint a replacement to serve out the term of the former member. If an appointed member's term expires, the member shall continue to serve until the member is reappointed or another person is appointed and confirmed by the senate to replace the member.

H. The authority shall meet at the call of the chair and shall meet in regular session at least once every three months.

I. The authority shall maintain written minutes of all meetings of the authority and maintain other appropriate records, including financial transaction records in compliance with law and adequate to provide an accurate record for audit purposes pursuant to the Audit Act.

Section 5. AUTHORITY POWERS AND DUTIES.--

A. The authority shall:

(1) hire an executive director who shall employ the necessary professional, technical and clerical staff to enable the authority to function efficiently and

shall direct the affairs and business of the authority,
subject to the direction of the authority;

(2) be located within fifty miles of a
southwest regional spaceport;

(3) advise the governor, the governor's
staff and the New Mexico finance authority oversight committee
on methods, proposals, programs and initiatives involving a
southwest regional spaceport that may further stimulate space-
related business and employment opportunities in New Mexico;

(4) initiate, develop, acquire, own,
construct, maintain and lease space-related projects;

(5) make and execute all contracts and other
instruments necessary or convenient to the exercise of its
powers and duties;

(6) create programs to expand high-
technology economic opportunities within New Mexico;

(7) create avenues of communication among
federal government agencies, the space industry, users of
space launch services and academia concerning space business;

(8) promote legislation that will further
the goals of the authority and development of space business;

(9) oversee and fund production of
promotional literature related to the authority's goals;

(10) identify science and technology trends
that are significant to space enterprise and the state and act

as a clearinghouse for space enterprise issues and information;

(11) coordinate and expedite the involvement of the state executive branch's space-related development efforts; and

(12) perform environmental, transportation, communication, land use and other technical studies necessary or advisable for projects and programs or to secure licensing by appropriate United States agencies.

B. The authority may:

(1) advise and cooperate with municipalities, counties, state agencies and organizations, appropriate federal agencies and organizations and other interested persons and groups;

(2) solicit and accept federal, state, local and private grants of funds or property and financial or other aid for the purpose of carrying out the provisions of the Spaceport Development Act;

(3) adopt rules governing the manner in which its business is transacted and the manner in which the powers of the authority are exercised and its duties performed;

(4) operate spaceport facilities, including acquisition of real property necessary for spaceport facilities and the filing of necessary documents with

appropriate agencies;

(5) construct, purchase, accept donations of or lease projects located within the state;

(6) sell, lease or otherwise dispose of a project upon terms and conditions acceptable to the authority and in the best interests of the state;

(7) issue revenue bonds and borrow money for the purpose of defraying the cost of acquiring a project by purchase or construction and of securing the payment of the bonds or repayment of a loan;

(8) refinance a project;

(9) contract with any competent private or public organization or individual to assist in the fulfillment of its duties; and

(10) fix, alter, charge and collect tolls, fees or rentals and impose any other charges for the use of or for services rendered by any authority facility, program or service.

C. The authority shall not:

(1) operate a project as a business or in any manner except as lessor;

(2) incur debt as a general obligation of the state or pledge the full faith and credit of the state to repay debt; or

(3) expend funds or incur debt for the

improvement, maintenance, repair or addition to property not owned by the authority.

Section 6. SPACEPORT AUTHORITY--BONDING AUTHORITY--
POWER TO ISSUE REVENUE BONDS.--

A. The authority may act as an issuing authority for the purposes of the Private Activity Bond Act.

B. The authority may issue revenue bonds for authority projects. Revenue bonds so issued may be considered appropriate investments for the severance tax permanent fund or collateral for the deposit of public funds if the bonds are rated not less than "A" by a national rating service and both the principal and interest of the bonds are fully and unconditionally guaranteed by a lease agreement executed by an agency of the United States government or by a corporation organized and operating within the United States, that corporation or the long-term debt of that corporation being rated not less than "A" by a national rating service. All bonds issued by the authority are legal and authorized investments for banks, trust companies, savings and loan associations and insurance companies.

C. The authority may pay from the bond proceeds all expenses, premiums and commissions that the authority deems necessary or advantageous in connection with the authorization, sale and issuance of the bonds.

D. Authority revenue bonds:

(1) may have interest or appreciated principal value or any part thereof payable at intervals determined by the authority;

(2) may be subject to prior redemption or mandatory redemption at the authority's option at the time and upon such terms and conditions with or without the payment of a premium as may be provided by resolution of the authority;

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

(4) may be serial in form and maturity; consist of one or more bonds payable at one time or in installments; or may be in such other form as determined by the authority;

(5) may be in registered or bearer form or in book-entry form through facilities of a securities depository either as to principal or interest or both;

(6) shall be sold for cash at, above or below par and at a price that results in a net effective interest rate that conforms to the Public Securities Act; and

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

E. Subject to the approval of the state board of finance, the authority may enter into other financial arrangements if it determines that the arrangements will assist the authority.

Section 7. AUTHORITY LOANS--TERMS.--If the authority borrows money from a financial institution or other entity:

A. the interest, principal payments or any part thereof shall be payable at intervals as may be determined by the authority;

B. the loan shall mature at any time not exceeding thirty years from the date of origination;

C. the principal amount of the loan shall not exceed fair market value of the real or personal property to be acquired with the proceeds of the loan as evidenced by a certified appraisal in accordance with the Real Estate Appraisers Act; and

D. the loan shall be subject to approval of the state board of finance.

Section 8. BONDS SECURED BY TRUST INDENTURE.--The bonds issued by the authority may be secured by a trust indenture between the authority and a corporate trustee that may be either a bank having trust powers or a trust company. The trust indenture may contain reasonable provisions for protecting and enforcing the rights and remedies of bondholders, including covenants setting forth the duties of the authority in relation to the exercise of its powers and the custody, use and investment of the project revenues or other funds. The authority may provide in a trust indenture for the payment of the proceeds of the bonds and the project

revenue to the trustee under the trust indenture or other depository for disbursement with any safeguards the authority determines are necessary.

Section 9. AUTHORITY REVENUE BONDS--LIMITATIONS--
AUTHORIZATION--AUTHENTICATION.--

A. Revenue bonds or refunding bonds issued pursuant to the Spaceport Development Act and other loans to the authority are:

(1) not general obligations of the state or any other agency of the state or of the authority; and

(2) payable only from properly pledged revenues and each bond or loan shall state that it is payable solely from the properly pledged revenues and that the bondholders or lenders may not look to any other fund for the payment of the interest and principal of the bond or the loan.

B. Revenue or refunding bonds or loans may be authorized by resolution of the authority, which shall be approved by a majority of the voting members of the authority and by the state board of finance.

C. The bonds or loans shall be executed by the chair of the authority and may be authenticated by any public or private transfer agent or registrar, or its successor, named or otherwise designated by the authority. Bonds, notes or other certificates of indebtedness of the authority may be executed as provided under the Uniform Facsimile Signature of

Public Officials Act, and the coupons, if any, shall bear the facsimile signature of the chair of the authority.

Section 10. SECURITY FOR BONDS, NOTES OR CERTIFICATES OF INDEBTEDNESS.--The principal of and interest on any bonds, notes or other certificates of indebtedness issued pursuant to the provisions of the Spaceport Development Act shall be secured by a pledge of the revenues out of which the bonds shall be made payable, may be secured by a mortgage, deed of trust note or other certificate of indebtedness covering all or part of the project from which the revenues so pledged may be derived, and may be secured by a pledge of any lease or installment sale agreement or other fees or revenues with respect to the project. The resolution of the authority under which bonds, notes, or other certificates of indebtedness are authorized to be issued or any mortgage, notes or certificates of indebtedness may contain any agreement and provisions customarily contained in instruments securing bonds, notes or certificates of indebtedness, including:

A. provisions respecting the fixing and collection of all revenues from any project covered by the proceedings or mortgage;

B. the terms to be incorporated in any lease or installment sale agreement with respect to the project;

C. the maintenance and insurance of the project;

and

D. the creation and maintenance of special funds from the revenues with respect to the project and the rights and remedies available in the event of default to the bondholders, to the trustee under a mortgage, deed of trust or trust indenture or to a lender, all as the authority deems advisable and not in conflict with the provisions of the Spaceport Development Act. In making the agreements or provisions, the authority shall not have the power to obligate itself except with respect to the project and the application of the revenues from the project and shall not have the power to incur a pecuniary liability or charge upon the state general credit or against the state taxing powers. The resolution authorizing any bonds and any mortgage securing such bonds, any note or other certificate of indebtedness shall set forth the procedure and remedies in the event of default in payment of the principal of or the interest on the bond, note or certificate of indebtedness or in the performance of any agreement. A breach of any agreement shall not impose any pecuniary liability upon the state or any charge upon its general credit or against its taxing powers.

Section 11. REQUIREMENTS RESPECTING RESOLUTION AND LEASE.--

A. A resolution for the issuance of bonds shall set forth the determinations and findings of the authority required by this section.

B. Prior to approving a resolution for the issuance of bonds or the closing of a loan for any project, the authority shall determine and find that:

(1) the resolution is for the issuance of bonds and the principal and interest of the bonds to be issued shall be fully secured by:

(a) a lease agreement or installment sale agreement executed by an agency of the United States government;

(b) a state or local public agency or institution;

(c) a corporation organized and operating within the United States whose long-term debt is rated not less than "A" by a national rating service;

(d) an irrevocable letter of credit issued by a chartered financial institution approved for this purpose by the state board of finance; or

(e) a bond insurance policy issued by an insurance company rated not less than "AA" by a national rating service;

(2) revenues are available in an amount necessary in each year to pay the principal of and interest on the bonds proposed to be issued or the loan proposed to be obtained to finance the project; and

(3) revenues are available in an amount

necessary to be paid each year into any reserve funds that the authority may deem advisable to establish in connection with the retirement of the proposed bonds or the repayment of the loan or the maintenance of the project.

C. Unless the terms under which the project is to be leased or sold provide that the lessee or purchaser shall maintain the project and carry all proper insurance with respect to the project, the resolution shall set forth the estimated cost of maintaining the project in good repair and keeping it properly insured.

D. Prior to the issuance of the bonds or the closing of the loan, the authority may lease or sell the project to a lessee or purchaser under an agreement conditioned upon completion of the project and providing for payment to the authority of such rentals or payments as, upon the basis of such determinations and findings pursuant to provisions of this section, will be sufficient to:

(1) pay the principal of and interest on the bonds issued or on the loan to be obtained to finance the project;

(2) build up and maintain any reserve deemed by the authority to be advisable in connection with the financing of the project; and

(3) pay the costs of maintaining the project in good repair and keep it properly insured, unless the

agreement of lease obligates the lessee to pay for the maintenance and insurance of the project.

E. With prior approval of the state board of finance, the authority may borrow funds to purchase, lease, acquire or develop water rights, a water system, a wastewater collection and treatment system, a natural gas distribution system, an electrical distribution system or other infrastructure needed to support the project; provided that the authority does not obligate itself or the state to any debt or obligation that cannot be paid from funds derived from the project.

F. Upon prior approval of the state board of finance, the authority may obtain commitment from a financial institution to borrow money; provided that closing of the loan and disbursement of the proceeds is conditional upon compliance with the requirements of the Spaceport Development Act. Nothing in this section shall be deemed to authorize the authority to incur any debt obligation of the authority in connection with a loan commitment prior to the closing of the loan.

Section 12. USE OF PROCEEDS FROM SALE OF BONDS.--

A. The proceeds from the sale of any bonds issued pursuant to the Spaceport Development Act shall be applied only for the purpose for which the bonds were issued; provided that:

(1) any accrued interest and premiums received in any sale shall be applied to the payment of the principal of or the interest on the bonds sold;

(2) if for any reason any portion of such proceeds are not needed for the purpose for which the bonds were issued, the balance of the proceeds shall be applied to the payment of the principal of or the interest on the bonds; and

(3) any portion of the proceeds from the sale of the bonds or any accrued interest and premium received in any such sale may, in the event the money will not be needed or cannot be used effectively to the advantage of the authority for the purposes provided pursuant to the Spaceport Development Act, be invested in short-term interest-bearing securities if such investment will not interfere with the use of the funds for the primary purpose of the project.

B. The cost of acquiring any project shall be deemed to include the following:

(1) the actual cost of construction of any part of a project, including architect, attorney and engineer fees;

(2) the purchase price of any part of a project that may be acquired by purchase;

(3) the actual cost of the extension of any utility to the project site and all expenses in connection

with the authorization, sale and issuance of the bonds to finance such acquisition; and

(4) the interest on those bonds for a reasonable time prior to construction, during construction and not exceeding six months after completion of construction.

Section 13. SPACEPORT AUTHORITY REVENUE BONDS--
REFUNDING AUTHORIZATION.--

A. The authority may issue refunding revenue bonds for the purpose of refinancing, paying and discharging all or any part of outstanding authority revenue bonds:

(1) for the acceleration, deceleration or other modification of payment of such obligations, including, without limitation, any capitalization of any interest in arrears or about to become due for any period not exceeding one year from the date of the refunding bonds;

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

(3) of modifying or eliminating restrictive contractual limitations pertaining to the issuance of additional bonds, otherwise concerning the outstanding bonds or to any facilities relating to the bonds.

B. The authority may pledge irrevocably for the payment of interest and principal on refunding bonds the appropriate pledged revenues that may be pledged to an original issue of bonds.

C. Bonds for refunding and bonds for any purpose permitted by the Spaceport Development Act may be issued separately or issued in a combination of one series or more.

Section 14. SPACEPORT AUTHORITY REFUNDING BONDS--
ESCROW.--

A. Refunding bonds issued pursuant to the Spaceport Development Act shall be authorized by resolution of the authority. Any bonds that are refunded under the provisions of this section 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 refunded bonds or otherwise pertaining thereto, except for any such bond that is voluntarily surrendered for exchange or payment by the holder or owner.

B. Provision shall be made for paying the bonds refunded at the time provided in this section. 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; provided that provision is duly and sufficiently made for payment of the refunded bonds.

C. The proceeds of refunding bonds, including any accrued interest and premium pertaining to the sale of

refunding bonds, shall either be immediately applied to the retirement of the bonds being refunded or be placed in escrow in a commercial bank or trust company that possesses and is exercising trust powers and that is a member of the federal deposit insurance corporation, to be applied to the payment of the principal of, interest on and any prior redemption premium due in connection with the bonds being refunded; provided that such refunding bond proceeds, including any accrued interest and any premium pertaining 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 thereon, the principal thereof or both interest and principal as the authority may determine. Nothing in this section requires the establishment of an escrow if the refunded bonds become due and payable within one year from the date of the refunding bonds and if 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. Any 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. 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 to pay the bonds being refunded as they become due at their respective maturities or due at any designated prior redemption date in connection with which the authority shall exercise a prior redemption option. Any purchaser of any refunding bond issued under the Spaceport Development Act is in no manner responsible for the application of the proceeds by the authority or any of its officers, agents or employees.

D. Refunding bonds may bear such additional terms and provisions as may be determined by the authority subject to the limitations in this section.

Section 15. AUTHORITY REFUNDING REVENUE BONDS---TERMS.---
Authority refunding revenue bonds:

A. may have interest or appreciated principal value payable at intervals or at maturity;

B. may be subject to prior redemption at the authority's option at such time or times and upon such terms and conditions with or without the payment of premiums;

C. may be serial in form and maturity;

D. may consist of a single bond payable in one or more installments; and

E. shall be exchanged for the bonds and any mature unpaid interest being refunded at not less than par or sold at public or negotiated sale 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.

Section 16. EXEMPTION FROM TAXATION.--Bonds authorized pursuant to the Spaceport Development Act and the income from those bonds, all mortgages or other security instruments executed as security for those bonds, all lease and installment purchase agreements made pursuant to the provisions of that act and revenue derived from any lease or sale by the authority shall be exempt from all taxation by the state or any subdivision thereof.

Section 17. SPACEPORT AUTHORITY FUND CREATED.--

A. The "spaceport authority fund" is created in the state treasury. Separate accounts within the fund may be created for any project. Money in the fund is appropriated to the authority for the purposes of carrying out the provisions of the Spaceport Development Act. Money in the fund shall not revert at the end of a fiscal year.

B. Except as provided in this section, any money received by the authority shall be deposited in the fund, including, but not limited to:

(1) the proceeds of any bonds issued by the authority or from any loan to the authority made pursuant to the Spaceport Development Act;

(2) interest earned upon any money in the fund;

(3) any property or securities acquired through the use of money belonging to the fund;

(4) all earnings of such property or securities;

(5) all lease or rental payments received from the authority from any project;

(6) all of the money received by the authority from any public or private source; and

(7) any fees, rents or other charges imposed and collected by the authority.

C. Any fees, rents or other charges imposed and collected by the authority in excess of those imposed and collected for an approved project and for all debt service and reserves for the bonds that financed the project may be expended only as appropriated pursuant to vouchers signed by the executive director of the authority or the director's designee pursuant to the Spaceport Development Act; provided that, in the event the position of executive director is vacant, vouchers may be signed by the chair of the authority.

D. Earnings on the balance in the fund shall be

credited to the fund. In addition, in the event that the proceeds from the issuance of bonds or from money borrowed by the authority are deposited in the state treasury, interest earned on that money during the period commencing with the deposit in the state treasury until actual transfer of the money to the fund shall be credited to the fund. _____

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