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HOUSE BILL 473

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Andy Nuñez

AN ACT

RELATING TO SPECIAL DISTRICTS; ENACTING THE REGIONAL SPACEPORT DISTRICT ACT; AUTHORIZING THE CREATION OF REGIONAL SPACEPORT DISTRICTS; PROVIDING FOR THE POWERS AND DUTIES OF REGIONAL SPACEPORT DISTRICTS; PROVIDING FOR THE POWERS AND RESPONSIBILITIES OF THE BOARD OF DIRECTORS; PROVIDING FOR COUNTY AND MUNICIPAL REGIONAL SPACEPORT GROSS RECEIPTS TAXES; AMENDING THE SPACEPORT DEVELOPMENT ACT.

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

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 13 of this act may be cited as the "Regional Spaceport District Act".

Section 2. [NEW MATERIAL] PURPOSES.--The purposes of the Regional Spaceport District Act are to:

- A. serve the public by providing for the

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1 development of a southwest regional spaceport;

2 B. allow multi-jurisdictional cooperation in the
3 creation of a southwest regional spaceport;

4 C. provide for the promotion of the southwest
5 regional spaceport; and

6 D. foster tourism in the cities and counties
7 comprising the district.

8 Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the
9 Regional Spaceport District Act:

10 A. "authority" means the spaceport authority
11 created pursuant to the Spaceport Development Act;

12 B. "board" means the board of directors of a
13 district;

14 C. "bond" means a revenue bond issued by the
15 authority on behalf of a district;

16 D. "combination" means two or more governmental
17 units that exercise joint authority;

18 E. "district" means a regional spaceport district
19 that is a political subdivision of the state created pursuant
20 to the Regional Spaceport District Act;

21 F. "governmental unit" means the state, a county or
22 a municipality of the state or an Indian nation, tribe or
23 pueblo located within the boundaries of the state;

24 G. "project" means any land, building or other
25 improvements acquired as part of a spaceport or associated with

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1 a spaceport or to aid commerce in connection with a spaceport
2 and all real and personal property deemed necessary in
3 connection with the spaceport;

4 H. "revenues" means municipal regional spaceport
5 gross receipts tax revenues and county regional spaceport gross
6 receipts tax revenues; and

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

11 Section 4. [NEW MATERIAL] CREATION OF DISTRICT.--

12 A. A combination may create a regional spaceport
13 district by contract. Upon the issuance by the authority of a
14 certificate stating that the district has been duly organized
15 according to the provisions of the Regional Spaceport District
16 Act, the district may exercise the functions conferred by the
17 provisions of that act. The authority shall issue the
18 certificate within thirty days of the filing with the authority
19 of a copy of a contract that fulfills all the requirements set
20 forth in this section and a copy of the bylaws and operating
21 procedures of the district. The authority shall cause the
22 certificate to be recorded in each county having territory
23 included in the boundaries of the district. Upon issuance of
24 the certificate by the authority, the district shall constitute
25 a separate political subdivision of the state and shall have

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1 all of the duties, privileges, immunities, rights, liabilities
2 and disabilities of a political subdivision.

3 B. A contract establishing a district shall specify
4 the:

5 (1) name and purpose of the district;

6 (2) establishment and organization of the
7 board in which all legislative power of the district is vested;

8 (3) manner of the appointment, term of service
9 and qualifications, if any, of the directors and the procedure
10 for filling vacancies;

11 (4) officers of the district, the manner of
12 their appointment and their duties;

13 (5) voting requirements for action by the
14 board;

15 (6) provisions for the distribution,
16 disposition or division of the assets of the district;

17 (7) term of the contract and the method by
18 which it may be terminated or rescinded, but the contract shall
19 not be terminated or rescinded so long as the authority has
20 bonds outstanding;

21 (8) provisions for amendment of the contract;

22 (9) limitations on the powers granted by the
23 Regional Spaceport District Act that may be exercised by the
24 district; and

25 (10) conditions required when adding or

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1 deleting parties to the contract.

2 C. A governmental unit shall not enter into a
3 contract establishing a district without holding at least three
4 public hearings in addition to other requirements imposed by
5 law for public notice. The governmental unit shall give notice
6 of the time, place and purpose of the public hearing by
7 publication in a newspaper of general circulation in the
8 governmental unit at least ten days prior to the date of the
9 public hearing.

10 D. Upon the approval of the governor and the
11 combination, the state may join in a contract creating a
12 district. The number of directors of the board to which the
13 state is entitled shall be established in the contract, but in
14 no case shall the state be entitled to less than one director.
15 The governor shall appoint, with the confirmation of the
16 senate, the director or directors representing the state on the
17 board for a term as established by the contract that created
18 the district.

19 Section 5. [NEW MATERIAL] BOARD.--

20 A. All powers, privileges and duties vested in or
21 imposed upon the district shall be exercised and performed by
22 the board. The board may delegate its powers by resolution to
23 an officer or agent of the board, with the exception of the
24 following:

25 (1) adoption of board policies and procedures;

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1 (2) initiation or continuation of legal
2 action;

3 (3) establishment of policies regarding the
4 use of revenues; and

5 (4) request to the authority to issue bonds.

6 B. Only an elected official may vote on resolutions
7 regarding Paragraph (4) of Subsection A of this section.

8 C. The board shall adopt rules to govern its
9 conduct and provide meaningful opportunities for public input,
10 which shall include standards and procedures for calling
11 emergency meetings.

12 D. The board shall be composed of at least one
13 director from each governmental unit that is a member of the
14 district. A director shall be an elected official or the
15 official's designee. A governmental unit shall not have a
16 majority of membership on the board, unless there are three or
17 fewer participating governmental units in the district.

18 E. A director of the board shall not vote on an
19 issue when the director has a conflict of interest. A director
20 of the board, officer of the board or employee of the board
21 shall not:

22 (1) acquire a financial interest in a new or
23 existing business venture or business property of any kind when
24 the person believes or has reason to believe that the new
25 financial interest will be directly affected by the official

1 act;

2 (2) use confidential information acquired by
3 virtue of the person's office or employment for the person's or
4 another's private gain; or

5 (3) contract with the district without public
6 notice and competitive bidding and full disclosure of the
7 person's financial or other interest in the business that is
8 party to the contract.

9 F. The attorney general shall investigate and
10 prosecute, when appropriate, a complaint brought to the
11 attorney general's attention involving a violation of
12 Subsection E of this section. Violation of the provisions of
13 Subsection E of this section by a director of the board,
14 officer of the board or employee of the board is grounds for
15 removal or suspension of the director or officer and dismissal,
16 demotion or suspension of the employee.

17 G. In addition to all other powers conferred by the
18 Regional Spaceport District Act, the board may:

19 (1) adopt bylaws;

20 (2) fix the time and place of meetings and the
21 method of providing notice of the meetings;

22 (3) make and pass orders and resolutions
23 necessary for the government and management of the affairs of
24 the district and the execution of the powers vested in the
25 district;

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- 1 (4) adopt and use a seal; and
- 2 (5) appoint advisory committees and define the
- 3 duties of the committees.

4 Section 6. [NEW MATERIAL] POWERS OF THE DISTRICT.--

5 A. A district is a body politic and corporate. In
6 addition to other powers granted to the district pursuant to
7 the Regional Spaceport District Act, the district may:

- 8 (1) have perpetual existence, except as
- 9 otherwise provided in the contract;
- 10 (2) sue and be sued;
- 11 (3) enter into contracts and agreements
- 12 affecting the affairs of the district;
- 13 (4) pledge all or a portion of the revenues to
- 14 the payment of bonds of the authority; and
- 15 (5) construct, in connection with the
- 16 authority, a regional spaceport within the boundaries of the
- 17 district.

18 B. After the creation of a district, the board may
19 include property within or exclude property from the boundaries
20 of the district in the manner provided in this section.
21 Property shall not be included within the boundaries of the
22 district unless it is within the boundaries of the members of
23 the combination at the time of the inclusion. Prior to
24 inclusion of property in or exclusion of property from the
25 boundaries of the district, the board shall cause notice of the

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1 proposed inclusion or exclusion to be published in a newspaper
2 of general circulation within the boundaries of the district
3 and cause the notice to be mailed to the authority. The notice
4 shall:

5 (1) describe the property to be included in or
6 excluded from the boundaries of the district;

7 (2) specify the date, time and place at which
8 the board shall hold a public hearing on the proposed inclusion
9 or exclusion; provided that the date of the public hearing
10 contained in the notice shall be not less than twenty days
11 after publication of the notice; and

12 (3) state that persons having objections to
13 the inclusion or exclusion may appear at the public hearing to
14 object to the proposed inclusion or exclusion.

15 C. The board shall hear all objections to the
16 proposed inclusion or exclusion of property at the time and
17 place designated in the notice. The board, upon the
18 affirmative vote of two-thirds of the directors, may adopt a
19 resolution including or excluding all or a portion of the
20 property described in the notice. Upon the adoption of the
21 resolution, the property shall be included within or excluded
22 from the boundaries of the district as set forth in the
23 resolution. The board may adopt the resolution without
24 amending the district's enabling contract. The board shall
25 file the resolution with the authority, which shall cause the

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1 resolution to be recorded in the real estate records of each
2 county having territory included in the boundaries of the
3 district.

4 Section 7. [NEW MATERIAL] BONDS.--A district may enter
5 into contracts with the authority pursuant to which the
6 authority may issue bonds under the Spaceport Development Act
7 for the purpose of financing the planning, designing,
8 engineering and construction of a regional spaceport or
9 spaceport-related project. The district shall request that the
10 authority issue bonds pursuant to resolution of the board, and
11 the bonds shall be payable solely out of all or a specified
12 portion of the revenues as designated by the board.

13 Section 8. [NEW MATERIAL] INVESTMENTS.--A board shall
14 invest or deposit funds in accordance with the prudent investor
15 rule set forth in the Uniform Prudent Investor Act. The board
16 shall employ the state investment council to invest the funds
17 and may pay reasonable compensation for investment management
18 services from the assets of the applicable funds. The board
19 shall keep accurate and complete records and accounts
20 concerning the investment portfolio.

21 Section 9. [NEW MATERIAL] TAXATION--EXEMPTION.--

22 A. The revenues of a district are exempt from
23 taxation in the state.

24 B. A district has no direct taxation authority.

25 Section 10. [NEW MATERIAL] COOPERATIVE POWERS.--A

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1 district may cooperate with a person to:

2 A. accept legitimate contributions or liens
3 securing obligations of the district from the person with
4 respect to the financing, planning, designing, engineering and
5 construction of a regional spaceport and, in connection with a
6 loan or advance, enter into contracts establishing the
7 repayment terms;

8 B. enter into contracts regarding the financing,
9 planning, designing, engineering and construction of a regional
10 spaceport; and

11 C. enter into joint operating contracts with the
12 authority concerning the financing, planning, designing,
13 engineering and construction of a regional spaceport.

14 Section 11. [NEW MATERIAL] NOTICE--OPPORTUNITY FOR
15 COMMENT.--At least seven business days prior to a regularly
16 scheduled meeting, the board shall make available to the public
17 written or electronic notice of the time and agenda of the
18 meeting. The board shall designate during each meeting a
19 public comment period and shall offer the public an opportunity
20 to comment.

21 Section 12. [NEW MATERIAL] ADDITION OR WITHDRAWAL OF
22 TERRITORY BY A DISTRICT.--

23 A. After the creation of a district, a governmental
24 unit adjacent to but not part of that district may join the
25 district and determine the territorial area to become a part of

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1 that district. A two-thirds' affirmative vote by the board
2 shall be required before the governmental unit may join the
3 district.

4 B. A governmental unit that is a member of a
5 district may withdraw from the district by adopting a
6 resolution to withdraw. The governmental unit shall withdraw
7 its representative from the board. Real property owned by the
8 district within the boundaries of the withdrawing governmental
9 unit shall remain the property of the district. The provisions
10 of withdrawal shall be negotiated and agreed to by the board,
11 the governmental unit and the authority.

12 Section 13. [NEW MATERIAL] USE OF REVENUE BY GOVERNMENTAL
13 UNITS.--Each governmental unit that is a county or municipality
14 and is a member of a combination shall have enacted a municipal
15 regional spaceport gross receipts tax or a county regional
16 spaceport gross receipts tax prior to December 31, 2008. At
17 least seventy-five percent of the municipal regional spaceport
18 gross receipts tax or county regional spaceport gross receipts
19 tax revenues received by each governmental unit must be used by
20 the district for the financing, planning, designing,
21 engineering and construction of a regional spaceport. No more
22 than twenty-five percent of the municipal regional spaceport
23 gross receipts tax or county regional spaceport gross receipts
24 tax revenues may be used by the governmental unit enacting the
25 tax for spaceport-related projects as approved by resolution of

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1 the governmental unit.

2 Section 14. A new section of the Municipal Local Option
3 Gross Receipts Taxes Act is enacted to read:

4 "[NEW MATERIAL] MUNICIPAL REGIONAL SPACEPORT GROSS
5 RECEIPTS TAX--AUTHORITY TO IMPOSE--RATE--ELECTION REQUIRED.--

6 A. A majority of the members of the governing body
7 of a municipality that desires to become a member of a regional
8 spaceport district pursuant to the Regional Spaceport District
9 Act shall impose by ordinance an excise tax at a rate not to
10 exceed one-half percent of the gross receipts of a person
11 engaging in business in the municipality for the privilege of
12 engaging in business. A tax imposed pursuant to this section
13 may be imposed by one or more ordinances, each imposing any
14 number of tax rate increments, but an increment shall not be
15 less than one-sixteenth percent of the gross receipts of a
16 person engaging in business in the municipality, and the
17 aggregate of all rates shall not exceed one-half percent of the
18 gross receipts of a person engaging in business in the
19 municipality. The tax may be referred to as the "municipal
20 regional spaceport gross receipts tax".

21 B. A governing body, at the time of enacting an
22 ordinance imposing a tax authorized in Subsection A of this
23 section, shall dedicate a minimum of seventy-five percent of
24 the revenue to a regional spaceport district for the financing,
25 planning, designing, engineering and construction of a regional

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1 spaceport pursuant to the Regional Spaceport District Act and
2 may dedicate no more than twenty-five percent of the revenue
3 for spaceport-related projects as approved by resolution of the
4 governing body of the municipality.

5 C. An ordinance imposing a municipal regional
6 spaceport gross receipts tax shall not go into effect until
7 after an election is held and a majority of the voters of the
8 municipality voting in the election votes in favor of imposing
9 the tax. The governing body shall adopt a resolution calling
10 for an election within seventy-five days of the date the
11 ordinance is adopted on the question of imposing the tax. The
12 question shall be submitted to the voters of the municipality
13 as a separate question at a regular municipal election or at a
14 special election called for that purpose by the governing body.
15 A special municipal election shall be called, conducted and
16 canvassed as provided in the Municipal Election Code. If a
17 majority of the voters voting on the question approves the
18 ordinance imposing the municipal regional spaceport gross
19 receipts tax, the ordinance shall become effective in
20 accordance with the provisions of the Municipal Local Option
21 Gross Receipts Taxes Act. If the question of imposing the
22 municipal regional spaceport gross receipts tax fails, the
23 governing body shall not again propose the imposition of an
24 increment of the tax for a period of one year from the date of
25 the election.

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1 D. The governing body of a municipality imposing
2 the municipal regional spaceport gross receipts tax shall
3 transfer a minimum of seventy-five percent of all proceeds from
4 the tax to the regional spaceport district of which it is a
5 member for regional spaceport purposes in accordance with the
6 provisions of the Regional Spaceport District Act. The
7 governing body of a municipality imposing the municipal
8 regional spaceport gross receipts tax may retain no more than
9 twenty-five percent of the municipal regional spaceport gross
10 receipts tax for spaceport-related projects as approved by
11 resolution of the governing body."

12 Section 15. A new section of the County Local Option
13 Gross Receipts Taxes Act is enacted to read:

14 "[NEW MATERIAL] COUNTY REGIONAL SPACEPORT GROSS RECEIPTS
15 TAX--AUTHORITY TO IMPOSE--RATE--ELECTION REQUIRED.--

16 A. A majority of the members of the governing body
17 of a county that desires to become a member of a regional
18 spaceport district pursuant to the Regional Spaceport District
19 Act shall impose by ordinance an excise tax at a rate not to
20 exceed one-half percent of the gross receipts of a person
21 engaging in business in the district area of the county for the
22 privilege of engaging in business. A tax imposed pursuant to
23 this section may be imposed by one or more ordinances, each
24 imposing any number of tax rate increments, but an increment
25 shall not be less than one-sixteenth percent of the gross

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1 receipts of a person engaging in business in the district area
2 of the county, and the aggregate of all rates shall not exceed
3 one-half percent of the gross receipts of a person engaging in
4 business in the district area of the county. The tax may be
5 referred to as the "county regional spaceport gross receipts
6 tax".

7 B. A governing body, at the time of enacting an
8 ordinance imposing the tax authorized in Subsection A of this
9 section, shall dedicate a minimum of seventy-five percent of
10 the proceeds of the revenue to the regional spaceport district
11 for the financing, planning, designing and engineering and
12 construction of a spaceport or for projects or services of the
13 district pursuant to the Regional Spaceport District Act and
14 may dedicate no more than twenty-five percent of the revenue
15 for spaceport-related projects as approved by resolution of the
16 governing body of the county.

17 C. An ordinance imposing a county regional
18 spaceport gross receipts tax shall not go into effect until
19 after an election is held and a majority of the voters of the
20 district area of the county voting in the election votes in
21 favor of imposing the tax. The governing body shall adopt an
22 ordinance calling for an election within seventy-five days of
23 the date the resolution is adopted on the question of imposing
24 the tax. The question shall be submitted to the voters of the
25 district area of the county as a separate question at a general

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1 election or at a special election called for that purpose by
2 the governing body. A special election shall be called,
3 conducted and canvassed substantially in the same manner as
4 provided by law for general elections. If a majority of the
5 voters voting on the question approves the ordinance imposing
6 the county regional spaceport gross receipts tax, the ordinance
7 shall become effective in accordance with the provisions of the
8 County Local Option Gross Receipts Taxes Act. If the question
9 of imposing the county regional spaceport gross receipts tax
10 fails, the governing body shall not again propose the
11 imposition of an increment of the tax for a period of one year
12 from the date of the election.

13 D. The governing body of a county imposing a county
14 regional spaceport gross receipts tax shall transfer a minimum
15 of seventy-five percent of all proceeds from the tax to the
16 regional spaceport district of which it is a member for the
17 purposes in accordance with the provisions of the Regional
18 Spaceport District Act. The governing body of a county
19 imposing a county regional spaceport gross receipts tax may
20 detain no more than twenty-five percent of the county regional
21 spaceport gross receipts tax for spaceport-related projects as
22 approved by the resolution of the governing body of the county.

23 E. As used in this section, "district area of the
24 county" means that portion of a county that is outside the
25 boundaries of a municipality and that is within the boundaries

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1 of a regional spaceport district of which the county is a
2 member; provided that if no municipality within the county has
3 imposed a municipal regional spaceport gross receipts tax,
4 "district area of the county" may mean the area within the
5 boundaries of the county that is within the boundaries of a
6 regional spaceport district of which the county is a member."

7 Section 16. Section 58-31-3 NMSA 1978 (being Laws 2005,
8 Chapter 128, Section 3) is amended to read:

9 "58-31-3. DEFINITIONS.--As used in the Spaceport
10 Development Act:

11 A. "authority" means the spaceport authority;

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

17 C. "revenue" means municipal regional spaceport
18 gross receipts tax and county regional spaceport gross receipts
19 tax revenue received from a regional spaceport district,
20 revenue generated by a project and any other legally available
21 funds of the authority;

22 [~~C.~~] D. "space vehicle" means [~~any~~] a vehicle
23 capable of being flown in space or launching a payload into
24 space; and

25 [~~D.~~] E. "spaceport" means [~~any~~] a facility in New

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1 Mexico at which space vehicles may be launched or landed,
2 including all facilities and support infrastructure related to
3 launch, landing or payload processing."

4 Section 17. Section 58-31-5 NMSA 1978 (being Laws 2005,
5 Chapter 128, Section 5) is amended to read:

6 "58-31-5. AUTHORITY POWERS AND DUTIES.--

7 A. The authority shall:

8 (1) hire an executive director, who shall
9 employ the necessary professional, technical and clerical staff
10 to enable the authority to function efficiently and shall
11 direct the affairs and business of the authority, subject to
12 the direction of the authority;

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

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

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

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

25 (6) create programs to expand high-technology

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1 economic opportunities within New Mexico;

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

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

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

9 (10) identify science and technology trends
10 that are significant to space enterprise and the state and act
11 as a clearinghouse for space enterprise issues and information;

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

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

19 B. The authority may:

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

24 (2) solicit and accept federal, state, local
25 and private grants of funds or property and financial or other

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1 aid for the purpose of carrying out the provisions of the
2 Spaceport Development Act;

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

6 (4) operate spaceport facilities, including
7 acquisition of real property necessary for spaceport facilities
8 and the filing of necessary documents with appropriate
9 agencies;

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

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

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

19 (8) enter into contracts with regional
20 spaceport districts and issue bonds on behalf of regional
21 spaceport districts for the purpose of financing the purchase,
22 construction, renovation, equipping or furnishing of a regional
23 spaceport or a spaceport-related project;

24 [+8] (9) refinance a project;

25 [+9] (10) contract with any competent private

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1 or public organization or individual to assist in the
2 fulfillment of its duties; ~~and~~
3 ~~(10)~~ (11) fix, alter, charge and collect
4 tolls, fees or rentals and impose any other charges for the use
5 of or for services rendered by any authority facility, program
6 or service; and

7 (12) contract with regional spaceport
8 districts to receive municipal spaceport gross receipts tax and
9 county regional spaceport gross receipts tax revenues.

10 C. The authority shall not:

11 ~~[(1) operate a project as a business or in any~~
12 ~~manner except as lessor;~~

13 ~~(2)~~ (1) incur debt as a general obligation of
14 the state or pledge the full faith and credit of the state to
15 repay debt; or

16 ~~[(3)]~~ (2) expend funds or incur debt for the
17 improvement, maintenance, repair or addition to property not
18 owned by the authority."

19 Section 18. Section 58-31-6 NMSA 1978 (being Laws 2005,
20 Chapter 128, Section 6) is amended to read:

21 "58-31-6. SPACEPORT AUTHORITY--BONDING AUTHORITY--POWER
22 TO ISSUE REVENUE BONDS.--

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

25 ~~B.]~~ A. The authority may issue revenue bonds ~~for~~

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1 ~~authority]~~ on its own behalf or on behalf of a regional
2 spaceport district, for regional spaceport purposes and
3 spaceport-related projects. Revenue bonds so issued may be
4 considered appropriate investments for the severance tax
5 permanent fund or collateral for the deposit of public funds if
6 the bonds are rated not less than "A" by a national rating
7 service and both the principal and interest of the bonds are
8 fully and unconditionally guaranteed by a lease agreement
9 executed by an agency of the United States government or by a
10 corporation organized and operating within the United States,
11 that corporation or the long-term debt of that corporation
12 being rated not less than "A" by a national rating service.
13 All bonds issued by the authority are legal and authorized
14 investments for banks, trust companies, savings and loan
15 associations and insurance companies.

16 [~~E-~~] B. The authority may pay from the bond
17 proceeds all expenses, premiums and commissions that the
18 authority deems necessary or advantageous in connection with
19 the authorization, sale and issuance of the bonds.

20 [~~D-~~] C. Authority revenue bonds:

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

24 (2) may be subject to prior redemption or
25 mandatory redemption at the authority's option at the time and

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1 upon such terms and conditions with or without the payment of a
2 premium as may be provided by resolution of the authority;

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

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

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

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

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

16 [~~E.~~] D. Subject to the approval of the state board
17 of finance, the authority may enter into other financial
18 arrangements if it determines that the arrangements will assist
19 the authority."

20 Section 19. Section 58-31-11 NMSA 1978 (being Laws 2005,
21 Chapter 128, Section 11) is amended to read:

22 "58-31-11. REQUIREMENTS RESPECTING RESOLUTION AND
23 LEASE.--

24 A. A resolution for the issuance of bonds shall set
25 forth the determinations and findings of the authority required

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1 by this section.

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

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

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

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

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

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

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

22 (f) revenue received by the authority
23 pursuant to a contract entered into by and between the
24 authority and a regional spaceport district;

25 (2) revenues are available in an amount

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1 necessary in each year to pay the principal of and interest on
2 the bonds proposed to be issued or the loan proposed to be
3 obtained to finance the project; and

4 (3) revenues are available in an amount
5 necessary to be paid each year into any reserve funds that the
6 authority may deem advisable to establish in connection with
7 the retirement of the proposed bonds or the repayment of the
8 loan or the maintenance of the project.

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

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

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

25 (2) build up and maintain any reserve deemed

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1 by the authority to be advisable in connection with the
2 financing of the project; and

3 (3) pay the costs of maintaining the project
4 in good repair and keep it properly insured, unless the
5 agreement of lease obligates the lessee to pay for the
6 maintenance and insurance of the project.

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

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

25 Section 20. Section 58-31-17 NMSA 1978 (being Laws 2005,

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1 Chapter 128, Section 17) is amended to read:

2 "58-31-17. SPACEPORT AUTHORITY FUND CREATED.--

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

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

12 (1) the proceeds of [~~any~~] bonds issued by the
13 authority or from [~~any~~] a loan to the authority made pursuant
14 to the Spaceport Development Act;

15 (2) interest earned upon [~~any~~] money in the
16 fund;

17 (3) [~~any~~] property or securities acquired
18 through the use of money belonging to the fund;

19 (4) all earnings of [~~such~~] property or
20 securities acquired pursuant to Paragraph (3) of this
21 subsection;

22 (5) all lease or rental payments received from
23 the authority from [~~any~~] a project;

24 (6) all of the money received by the authority
25 from [~~any~~] a public or private source; and

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[bracketed material] = delete

1 (7) [~~any~~] fees, rents or other charges imposed
2 and collected by the authority.

3 C. [~~Any~~] Fees, rents or other charges imposed and
4 collected by the authority in excess of those imposed and
5 collected for an approved project and for all debt service and
6 reserves for the bonds that financed the project may be
7 expended only as appropriated pursuant to vouchers signed by
8 the executive director of the authority or the director's
9 designee pursuant to the Spaceport Development Act; provided
10 that, in the event the position of executive director is
11 vacant, vouchers may be signed by the chair of the authority.

12 D. Earnings on the balance in the fund shall be
13 credited to the fund. In addition, in the event that the
14 proceeds from the issuance of bonds or from money borrowed by
15 the authority are deposited in the state treasury, interest
16 earned on that money during the period commencing with the
17 deposit in the state treasury until actual transfer of the
18 money to the fund shall be credited to the fund.

19 E. All proceeds from issuing revenue bonds shall be
20 placed in such funds as shall be established in the resolution
21 of the authority authorizing the issuance of the bonds."