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SENATE BILL 348

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

INTRODUCED BY

Leonard Lee Rawson

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

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

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

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

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

23 G. "project" means any land, building or other  
24 improvements acquired as part of a spaceport or associated with  
25 a spaceport or to aid commerce in connection with a spaceport

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1 and all real and personal property deemed necessary in  
2 connection with the spaceport;

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

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

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

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

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1 and disabilities of a political subdivision.

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

4 (1) name and purpose of the district;

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

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

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

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

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

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

20 (8) provisions for amendment of the contract;

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

24 (10) conditions required when adding or  
25 deleting parties to the contract.

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

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

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

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

- 24                           (1) adoption of board policies and procedures;  
25                           (2) initiation or continuation of legal

1 action;

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

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

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

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

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

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

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

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

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

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

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

18 (1) adopt bylaws;

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

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

25 (4) adopt and use a seal; and

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1 (5) appoint advisory committees and define the  
2 duties of the committees.

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

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

7 (1) have perpetual existence, except as  
8 otherwise provided in the contract;

9 (2) sue and be sued;

10 (3) enter into contracts and agreements  
11 affecting the affairs of the district;

12 (4) pledge all or a portion of the revenues to  
13 the payment of bonds of the authority; and

14 (5) construct, in connection with the  
15 authority, a regional spaceport within the boundaries of the  
16 district.

17 B. After the creation of a district, the board may  
18 include property within or exclude property from the boundaries  
19 of the district in the manner provided in this section.

20 Property shall not be included within the boundaries of the  
21 district unless it is within the boundaries of the members of  
22 the combination at the time of the inclusion. Prior to  
23 inclusion of property in or exclusion of property from the  
24 boundaries of the district, the board shall cause notice of the  
25 proposed inclusion or exclusion to be published in a newspaper

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1 of general circulation within the boundaries of the district  
2 and cause the notice to be mailed to the authority. The notice  
3 shall:

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

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

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

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

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1 county having territory included in the boundaries of the  
2 district.

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

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

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

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

23 B. A district has no direct taxation authority.

24 Section 10. [NEW MATERIAL] COOPERATIVE POWERS.--A  
25 district may cooperate with a person to:

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

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

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

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

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

22           A. After the creation of a district, a governmental  
23           unit adjacent to but not part of that district may join the  
24           district and determine the territorial area to become a part of  
25           that district. A two-thirds' affirmative vote by the board

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1 shall be required before the governmental unit may join the  
2 district.

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

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

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

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

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

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

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1 may dedicate no more than twenty-five percent of the revenue  
2 for spaceport-related projects as approved by resolution of the  
3 governing body of the municipality.

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

25 D. The governing body of a municipality imposing

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

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

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

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

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

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

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

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

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

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

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

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

8 "58-31-3. DEFINITIONS.--As used in the Spaceport  
9 Development Act:

10 A. "authority" means the spaceport authority;

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

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

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

24 [~~D.~~] E. "spaceport" means [~~any~~] a facility in New  
25 Mexico at which space vehicles may be launched or landed,

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1 including all facilities and support infrastructure related to  
2 launch, landing or payload processing."

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

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

6 A. The authority shall:

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

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

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

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

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

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

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

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

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

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

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

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

18 B. The authority may:

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

23 (2) solicit and accept federal, state, local  
24 and private grants of funds or property and financial or other  
25 aid for the purpose of carrying out the provisions of the

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1 Spaceport Development Act;

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

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

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

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

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

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

23 [~~8~~] (9) refinance a project;

24 [~~9~~] (10) contract with any competent private  
25 or public organization or individual to assist in the

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1 fulfillment of its duties; [~~and~~

2 ~~(10)] (11) fix, alter, charge and collect~~

3 tolls, fees or rentals and impose any other charges for the use

4 of or for services rendered by any authority facility, program

5 or service; and

6 (12) contract with regional spaceport

7 districts to receive municipal spaceport gross receipts tax and

8 county regional spaceport gross receipts tax revenues.

9 C. The authority shall not:

10 [~~(1) operate a project as a business or in any~~

11 ~~manner except as lessor;~~

12 ~~(2)] (1) incur debt as a general obligation of~~

13 the state or pledge the full faith and credit of the state to

14 repay debt; or

15 [~~(3)] (2) expend funds or incur debt for the~~

16 improvement, maintenance, repair or addition to property not

17 owned by the authority."

18 Section 18. Section 58-31-6 NMSA 1978 (being Laws 2005,

19 Chapter 128, Section 6) is amended to read:

20 "58-31-6. SPACEPORT AUTHORITY--BONDING AUTHORITY--POWER

21 TO ISSUE REVENUE BONDS.--

22 [~~A. The authority may act as an issuing authority~~

23 ~~for the purposes of the Private Activity Bond Act.~~

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

25 ~~authority] on its own behalf or on behalf of a regional~~

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

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

19 ~~[D.]~~ C. Authority revenue bonds:

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

23 (2) may be subject to prior redemption or  
24 mandatory redemption at the authority's option at the time and  
25 upon such terms and conditions with or without the payment of a

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1 premium as may be provided by resolution of the authority;

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

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

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

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

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

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

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

21 "58-31-11. REQUIREMENTS RESPECTING RESOLUTION AND  
22 LEASE.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (2) build up and maintain any reserve deemed  
25 by the authority to be advisable in connection with the

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1 financing of the project; and

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

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

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

24 Section 20. Section 58-31-17 NMSA 1978 (being Laws 2005,  
25 Chapter 128, Section 17) is amended to read:

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1 "58-31-17. SPACEPORT AUTHORITY FUND CREATED.--

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

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

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

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

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

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

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

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

25 (7) [~~any~~] fees, rents or other charges imposed

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1 and collected by the authority.

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

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

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