

1 SENATE BILL 75

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Lee S. Cotter

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10 AN ACT

11 RELATING TO FINANCE; REPEALING THE SPACEPORT AUTHORITY'S POWER
12 TO ISSUE BONDS; LIMITING THE USE OF CERTAIN PROCEEDS OF THE
13 COUNTY REGIONAL SPACEPORT GROSS RECEIPTS TAX.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 5-16-1 NMSA 1978 (being Laws 2006,
17 Chapter 15, Section 1) is amended to read:

18 "5-16-1. SHORT TITLE.--~~[Sections 1 through 13 of this~~
19 ~~act]~~ Chapter 5, Article 16 NMSA 1978 may be cited as the
20 "Regional Spaceport District Act"."

21 SECTION 2. Section 5-16-5 NMSA 1978 (being Laws 2006,
22 Chapter 15, Section 5) is amended to read:

23 "5-16-5. BOARD.--

24 A. All powers, privileges and duties vested in or
25 imposed upon the district shall be exercised and performed by

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1 the board. The board may delegate its powers by resolution to
2 an officer or agent of the board, with the exception of the
3 following:

- 4 (1) adoption of board policies and procedures;
- 5 (2) initiation or continuation of legal
6 action; and
- 7 (3) establishment of policies regarding the
8 use of revenues. [~~and~~
- 9 ~~(4) request to the authority to issue bonds.~~

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

12 ~~G.]~~ B. The board shall adopt rules to govern its
13 conduct and provide meaningful opportunities for public input,
14 which shall include standards and procedures for calling
15 emergency meetings.

16 ~~[D.]~~ C. The board shall be composed of at least one
17 director from each governmental unit that is a member of the
18 district. A director shall be an elected official or the
19 official's designee. A governmental unit shall not have a
20 majority of membership on the board, unless there are three or
21 fewer participating governmental units in the district.

22 ~~[E.]~~ D. A director of the board shall not vote on
23 an issue when the director has a conflict of interest. A
24 director of the board, officer of the board or employee of the
25 board shall not:

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1 (1) acquire a financial interest in a new or
2 existing business venture or business property of any kind when
3 the person believes or has reason to believe that the new
4 financial interest will be directly affected by the official
5 act;

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

9 (3) contract with the district without public
10 notice and competitive bidding and full disclosure of the
11 person's financial or other interest in the business that is
12 party to the contract.

13 ~~[F-]~~ E. The attorney general shall investigate and
14 prosecute, when appropriate, a complaint brought to the
15 attorney general's attention involving a violation of
16 Subsection ~~[E]~~ D of this section. Violation of the provisions
17 of Subsection ~~[E]~~ D of this section by a director of the board,
18 officer of the board or employee of the board is grounds for
19 removal or suspension of the director or officer and dismissal,
20 demotion or suspension of the employee.

21 ~~[G-]~~ F. In addition to all other powers conferred
22 by the Regional Spaceport District Act, the board may:

23 (1) adopt bylaws;

24 (2) fix the time and place of meetings and the
25 method of providing notice of the meetings;

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1 (3) make and pass orders and resolutions
2 necessary for the government and management of the affairs of
3 the district and the execution of the powers vested in the
4 district;

5 (4) adopt and use a seal; and

6 (5) appoint advisory committees and define the
7 duties of the committees."

8 SECTION 3. Section 5-16-6 NMSA 1978 (being Laws 2006,
9 Chapter 15, Section 6) is amended to read:

10 "5-16-6. POWERS OF THE DISTRICT.--

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

14 (1) have perpetual existence, except as
15 otherwise provided in the contract;

16 (2) sue and be sued;

17 (3) enter into contracts and agreements
18 affecting the affairs of the district; and

19 [~~(4) pledge all or a portion of the revenues~~
20 ~~to the payment of bonds of the authority; and~~

21 ~~(5)] (4) construct, in connection with the
22 authority, a regional spaceport within the boundaries of the
23 district.~~

24 B. After the creation of a district, the board may
25 include property within or exclude property from the boundaries

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1 of the district in the manner provided in this section.
2 Property shall not be included within the boundaries of the
3 district unless it is within the boundaries of the members of
4 the combination at the time of the inclusion. Prior to
5 inclusion of property in or exclusion of property from the
6 boundaries of the district, the board shall cause notice of the
7 proposed inclusion or exclusion to be published in a newspaper
8 of general circulation within the boundaries of the district
9 and cause the notice to be mailed to the authority. The notice
10 shall:

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

13 (2) specify the date, time and place at which
14 the board shall hold a public hearing on the proposed inclusion
15 or exclusion; provided that the date of the public hearing
16 contained in the notice shall be not less than twenty days
17 after publication of the notice; and

18 (3) state that persons having objections to
19 the inclusion or exclusion may appear at the public hearing to
20 object to the proposed inclusion or exclusion.

21 C. The board shall hear all objections to the
22 proposed inclusion or exclusion of property at the time and
23 place designated in the notice. The board, upon the
24 affirmative vote of two-thirds of the directors, may adopt a
25 resolution including or excluding all or a portion of the

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1 property described in the notice. Upon the adoption of the
2 resolution, the property shall be included within or excluded
3 from the boundaries of the district as set forth in the
4 resolution. The board may adopt the resolution without
5 amending the district's enabling contract. The board shall
6 file the resolution with the authority, which shall cause the
7 resolution to be recorded in the real estate records of each
8 county having territory included in the boundaries of the
9 district."

10 SECTION 4. Section 5-16-13 NMSA 1978 (being Laws 2006,
11 Chapter 15, Section 13) is amended to read:

12 "5-16-13. USE OF REVENUE BY GOVERNMENTAL UNITS.--

13 A. Each governmental unit that is a county or
14 municipality and is a member of a combination shall have
15 enacted a municipal regional spaceport gross receipts tax or a
16 county regional spaceport gross receipts tax prior to December
17 31, 2008.

18 B. At least seventy-five percent of the municipal
19 regional spaceport gross receipts tax or county regional
20 spaceport gross receipts tax revenues received by each
21 governmental unit ~~[must]~~ shall be used by the district for the
22 financing, planning, designing, engineering and construction of
23 a regional spaceport; provided that the full amount of revenues
24 of the county regional spaceport gross receipts tax that are
25 received on or after July 1, 2015 pursuant to this subsection

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1 shall only be used, until the bonds are fully retired or
2 discharged, to pay principal and interest on bonds issued prior
3 to July 1, 2015 pursuant to the terms and conditions of the
4 version of the Spaceport Development Act in effect on the date
5 of issuance of those bonds or for acceleration of the payment
6 of principal and interest on those bonds or to retire or
7 discharge those bonds prior to their original term.

8 C. No more than twenty-five percent of the
9 municipal regional spaceport gross receipts tax or county
10 regional spaceport gross receipts tax revenues may be used by
11 the governmental unit enacting the tax for spaceport-related
12 projects as approved by resolution of the governmental unit."

13 SECTION 5. Section 7-19D-15 NMSA 1978 (being Laws 2006,
14 Chapter 15, Section 14) is amended to read:

15 "7-19D-15. MUNICIPAL REGIONAL SPACEPORT GROSS RECEIPTS
16 TAX--AUTHORITY TO IMPOSE--RATE--ELECTION REQUIRED.--

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

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

7 B. A governing body, at the time of enacting an
8 ordinance imposing a tax authorized in Subsection A of this
9 section:

10 (1) shall dedicate a minimum of seventy-five
11 percent of the revenue from the tax to a regional spaceport
12 district for the financing, planning, designing, engineering
13 and construction of a regional spaceport pursuant to the
14 Regional Spaceport District Act; provided that the full amount
15 of the proceeds of the revenue that are received pursuant to
16 this paragraph on or after July 1, 2015 shall only be used,
17 until the bonds are fully retired or discharged, to pay
18 principal and interest on bonds issued prior to July 1, 2015
19 pursuant to the terms and conditions of the version of the
20 Spaceport Development Act in effect on the date of issuance of
21 those bonds or for acceleration of the payment of the principal
22 and interest on those bonds or to retire or discharge those
23 bonds prior to their original term; and

24 (2) may dedicate no more than twenty-five
25 percent of the revenue for spaceport-related projects as

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1 approved by resolution of the governing body of the
2 municipality.

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

24 D. Subject to the provisions of Subsection B of
25 this section, the governing body of a municipality imposing the

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

11 SECTION 6. Section 7-20E-25 NMSA 1978 (being Laws 2006,
12 Chapter 15, Section 15) is amended to read:

13 "7-20E-25. COUNTY REGIONAL SPACEPORT GROSS RECEIPTS TAX--
14 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 shall 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:

9 (1) shall dedicate a minimum of seventy-five
10 percent of the proceeds of the revenue from the tax to the
11 regional spaceport district for the financing, planning,
12 designing and engineering and construction of a spaceport or
13 for projects or services of the district pursuant to the
14 Regional Spaceport District Act; provided that the full amount
15 of the proceeds of the revenue that are received pursuant to
16 this paragraph on or after July 1, 2015 shall only be used,
17 until the bonds are fully retired or discharged, to pay
18 principal and interest on bonds issued prior to July 1, 2015
19 pursuant to the terms and conditions of the version of the
20 Spaceport Development Act in effect on the date of issuance of
21 those bonds or for acceleration of the payment of principal and
22 interest on those bonds or to retire or discharge those bonds
23 prior to their original term; and

24 (2) may dedicate no more than twenty-five
25 percent of the revenue for spaceport-related projects as

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1 approved by resolution of the governing body of the county.

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

23 D. Subject to the provisions of Subsection B of
24 this section, the governing body of a county imposing a county
25 regional spaceport gross receipts tax shall transfer a minimum
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1 of seventy-five percent of all proceeds from the tax to the
2 regional spaceport district of which it is a member for the
3 purposes in accordance with the provisions of the Regional
4 Spaceport District Act. The governing body of a county
5 imposing a county regional spaceport gross receipts tax may
6 retain no more than twenty-five percent of the county regional
7 spaceport gross receipts tax for spaceport-related projects as
8 approved by the resolution of the governing body of the county.

9 E. As used in this section, "district area of the
10 county" means that portion of a county that is outside the
11 boundaries of a municipality and that is within the boundaries
12 of a regional spaceport district of which the county is a
13 member; provided that if no municipality within the county has
14 imposed a municipal regional spaceport gross receipts tax,
15 "district area of the county" may mean the area within the
16 boundaries of the county that is within the boundaries of a
17 regional spaceport district of which the county is a member."

18 SECTION 7. Section 58-31-1 NMSA 1978 (being Laws 2005,
19 Chapter 128, Section 1) is amended to read:

20 "58-31-1. SHORT TITLE.--~~[This act]~~ Chapter 58, Article 31
21 NMSA 1978 may be cited as the "Spaceport Development Act"."

22 SECTION 8. Section 58-31-5 NMSA 1978 (being Laws 2005,
23 Chapter 128, Section 5, as amended) is amended to read:

24 "58-31-5. AUTHORITY POWERS AND DUTIES.--

25 A. The authority shall:

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1 (1) hire an executive director, who shall
2 employ the necessary professional, technical and clerical staff
3 to enable the authority to function efficiently and shall
4 direct the affairs and business of the authority, subject to
5 the direction of the authority;

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

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

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

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

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

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

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

25 (9) oversee and fund production of promotional

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1 literature related to the authority's goals;

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

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

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

12 B. The authority may:

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

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

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

24 (4) operate spaceport facilities, including
25 acquisition of real property necessary for spaceport facilities

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1 and the filing of necessary documents with appropriate
2 agencies;

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

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

8 [~~(7)~~] ~~issue revenue bonds and borrow money for~~
9 ~~the purpose of defraying the cost of acquiring a project by~~
10 ~~purchase or construction and of securing the payment of the~~
11 ~~bonds or repayment of a loan;~~

12 ~~(8)]~~ (7) enter into contracts with regional
13 spaceport districts [~~and issue bonds on behalf of regional~~
14 ~~spaceport districts]~~ for the purpose of financing the purchase,
15 construction, renovation, equipping or furnishing of a regional
16 spaceport or a spaceport-related project;

17 [~~(9)~~] (8) refinance a project;

18 [~~(10)~~] (9) contract with any competent private
19 or public organization or individual to assist in the
20 fulfillment of its duties;

21 [~~(11)~~] (10) fix, alter, charge and collect
22 tolls, fees or rentals and impose any other charges for the use
23 of or for services rendered by any authority facility, program
24 or service; and

25 [~~(12)~~] (11) contract with regional spaceport

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1 districts to receive municipal spaceport gross receipts tax and
2 county regional spaceport gross receipts tax revenues; provided
3 that revenues received pursuant to this paragraph on or after
4 July 1, 2015 shall only be used, until the bonds are fully
5 retired or discharged, to pay principal and interest on bonds
6 issued prior to July 1, 2015 pursuant to the terms and
7 conditions of the version of the Spaceport Development Act in
8 effect on the date of issuance of those bonds or for
9 acceleration of the payment of principal and interest on those
10 bonds or to retire or discharge those bonds prior to their
11 original term.

12 C. The authority shall not:

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

16 (2) expend funds or incur debt for the
17 improvement, maintenance, repair or addition to property unless
18 it is owned by the authority, the state or a political
19 subdivision of the state."

20 SECTION 9. REPEAL.--Sections 58-31-6 through 58-31-16
21 NMSA 1978 (being Laws 2005, Chapter 128, Sections 6 through 16,
22 as amended) are repealed.

23 SECTION 10. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2015.