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FISCAL IMPACT REPORT

ORIGINAL DATE 2/03/06
 LAST UPDATED 2/08/06

SPONSOR Nunez, A. HB 473/aHTRC/aHFL#1

SHORT TITLE Regional Spaceport District Act SB _____

ANALYST Earnest

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY06	FY07	FY08	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		(\$0.1)	(\$0.1)	(\$0.1)	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to: HB 88, HB 89, and SB 354
 Duplicates SB 348.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Economic Development Department (EDD)
 State Land Office (SLO)
 New Mexico Finance Authority (NMFA)
 Tourism Department (TD)
 Office of the Attorney General (AGO)
 Department of Finance and Administration (DFA)
 Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HF Amendment #1

The House Floor amendment to House Bill 473 as amended by the House Taxation and Revenue Committee incorporates a change made to the Spaceport Authority Act by House Bill 88. The

House Floor amendment prohibits the Spaceport Authority to make improvements to property unless the property is owned by the authority, state, or other political subdivision of the state.

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee amendment makes technical corrections and two substantial changes. Under the amendment, the revenues of a district are no longer exempt from state taxation and Spaceport Authority revenue bonds may mature any time not exceeding 20 years after issuance if secured by revenue from the county or municipal regional spaceport gross receipts tax or 30 years if secured by revenue from other sources.

Synopsis of Original Bill

House Bill 473 amends the Spaceport Development Act to:

1. permit the creation of Regional Spaceport Districts and define the powers and duties of the districts, provide for the powers and responsibilities of the board of directors, and provide for county and municipal regional spaceport gross receipts taxes;
2. authorize municipalities and counties to impose, upon voter approval, a regional spaceport gross receipts tax, in increments of one-sixteenth percent, not to exceed one-half percent; and
3. allow the Spaceport Authority to contract with and issue bonds on behalf of regional spaceport districts and receive municipal and county regional spaceport gross receipts taxes.

FISCAL IMPLICATIONS

The revenue impact to the state is indeterminate. According to TRD, the actual fiscal impact of the proposal is uncertain because it depends on which jurisdictions elect to participate in a spaceport district. The revenue potential associated with each jurisdiction is presented in the attached table.

There would be a reduction in general fund revenue associated with any new local option approved for the spaceport district because of the hold harmless distributions to local governments for any food and medical deduction reported in their jurisdiction. On average statewide, these deductions equal about 7 percent of the gross receipts tax base

According to the AGO, SB 348 imposes a duty on the Attorney General to investigate and prosecute violations of a certain provision of the Regional Spaceport District Act relating to conflicts of interests by members of a district's board of directors. This duty may have a fiscal impact on that portion of this office's budget dedicated to investigating and prosecuting violations of the Governmental Conduct Act (NMSA 1978, §§ 10-16-1 through 10-16-18), although the amount of any impact is difficult to calculate

SIGNIFICANT ISSUES

HB 473 is one of several introduced bills to further enable and promote the creation a spaceport in southern New Mexico. Construction of the Southwest Regional Spaceport, currently planned to be built on 27 acres of mostly state land near Upham, New Mexico, is estimated to cost \$225 million. The Governor has requested approximately \$100 million in capital outlay funding.

This legislation would authorize the other major funding mechanism – the imposition of local option gross receipts taxes – which according to DFA, may generate new revenue in the range of \$26 million (at the 1/16 percent increment) to \$210 million (at the full 1/2 percent increment). At least 75 percent of the new revenue would be dedicated to financing, planning, designing, engineering, and construction of a regional spaceport. Up to 25 percent of the revenue may be retained by the local government for local spaceport-related projects. EDD indicates that \$30 million is a reasonably conservative estimate of local government funding for spaceport construction.

Regional spaceport districts may be created by contract by two or more governmental units (the state, a county or municipality, or an Indian nation, tribe or pueblo) and are to be governed by a board composed of representatives of district members. The regional spaceport districts would be political subdivisions of the state. Any city or county can join the district if it imposes a regional spaceport gross receipts tax.

PERFORMANCE IMPLICATIONS

There are no performance measures to gauge the activities of the Spaceport Authority.

ADMINISTRATIVE IMPLICATIONS

HB 473 will impose additional responsibility on the Spaceport Authority. The bill enables the Spaceport Authority to enter into contracts with spaceport districts for the purpose of financing the purchase, construction, renovation, equipping or furnishing of a regional spaceport. Under this legislation the Authority may also receive municipal and county gross receipts tax revenues.

Under separate legislation, EDD has requested the transfer of personnel and resources from the Office of Space at EDD to the Spaceport Authority, which is administratively attached to the department.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to:

- House Bill 88, “Expenditure of Spaceport Development Funds”
- House Bill 89, “Abolish Space Commission and Transfer Funds
- Senate Bill 354, “Spaceport Development Fund”

Duplicates:

- Senate Bill 348, “Regional Spaceport District Act”

OTHER SUBSTANTIVE ISSUES

According to the AGO, section 5.E of SB 348, relating to the conflict of interests of a director or employee of a regional spaceport district board, does not exempt the officers or employees from the Governmental Conduct Act (NMSA 1978, §§ 10-16-1 through 10-16-18). It also duplicates only certain provisions of the Governmental Conduct Act, i.e.:

- a public officer shall disqualify himself from engaging in any official act directly affecting his financial interest (NMSA 1978, § 10-16-4),

- no legislator, public officer or employee shall use confidential information acquired by virtue of his state employment or office for his or another's private gain (NMSA 1978, § 10-16-6), and
- a state agency shall not enter into any contract with a public officer or employee of the state or with a business in which the public officer or employee has a substantial interest unless the public officer or employee has disclosed his substantial interest and unless the contract is awarded pursuant to the Procurement Code (NMSA 1978, § 10-16-7).

More problematic is that Section 5.E of SB 348 not only prohibits a director of a regional spaceport district board from voting on an issue when the director has a conflict of interest, consistent with NMSA 1978, § 10-16-4 of the Governmental Conduct Act, but also prohibits a director, officer, or employee of a regional spaceport district board from acquiring a financial interest in a new or existing business venture of any kind when the person believes or has reason to believe the financial interest will be directly affected by an official act of that director, officer or employee. This particular clause may be too broad and viewed as a form of prior restraint on an individual's property interests.

Even though the Attorney General is charged with investigating and prosecuting violations of Section 5.E, it does not carry a civil or criminal penalty. The Governmental Conduct Act authorizes the Attorney General or District Attorney to initiate enforcement action for violations of that Act, but under Section 5.F of SB 348, only the Attorney General may initiate actions for violations of Section 5.E. This raises the question whether the Legislature intends that a director, officer, or employee of a regional spaceport district board may be subject to prosecution under both the Governmental Conduct Act and Section 5.E for the same violation.

TECHNICAL ISSUES

TRD indicates that, in most cases, local option tax statutes stipulate that any new option would take effect on a January 1 or July 1 so that these changes can be incorporated into the regular CRS system mailings and workshops. The term "district" should be more strictly defined. The term "district" is a "body politic and corporate" but it is also being used when discussing land mass, property and territory. Section 5, Subsection D (page 6) provides that each governmental unit shall have a board member and that such director shall be an "elected official or *his designee*." But Section 5, subsection B (page 6) provides that only an "elected official" may vote on land acquisition or bonding issues. It is unclear what would happen to the assets of the district if the district would dissolve at the end of the contract.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If HB 473 is not enacted, a significant element of the funding package for the spaceport project will not materialize. If local funding is not available, the funding of this project will be in jeopardy and other financial resources will have to be identified.

**Regional Spaceport Districts
Revenue Potential from Jurisdictions
1/16th increment**

<u>County / City</u>	<u>FY 2007 Taxable Gross Receipts</u>	<u>1/16th% tax (.0625%)*</u>	<u>75% to Spaceport Dis- trict**</u>
Bernalillo (Remainder)	2,461,603,168	1,538,502	1,153,876
Albuquerque	13,737,100,767	8,585,688	6,439,266
State Fairgrounds (Rmndr)	21,389,320	13,368	10,026
Los Ranchos de Albuquerque	82,584,892	51,616	38,712
Tijeras	30,736,574	19,210	14,408
Corrales	26,493,388	16,558	12,419
Rio Rancho	128,636,423	80,398	60,298
County Total	16,488,544,531	10,305,340	7,729,005
		-	-
Catron (Remainder)	31,622,471	19,764	14,823
Reserve	5,821,303	3,638	2,729
County Total	37,443,774	23,402	17,552
		-	-
Chaves (Remainder)	137,278,597	85,799	64,349
Roswell	843,861,401	527,413	395,560
Dexter	21,132,334	13,208	9,906
Hagerman	10,472,936	6,546	4,909
Lake Arthur	1,278,359	799	599
County Total	1,014,023,627	633,765	475,324
		-	-
Cibola (Remainder)	29,586,198	18,491	13,869
Milan	63,882,331	39,926	29,945
Grants	168,388,248	105,243	78,932
County Total	261,856,777	163,660	122,745
Colfax (Remainder)	57,016,242	35,635	26,726
Raton	118,244,980	73,903	55,427
Maxwell	2,430,692	1,519	1,139
Springer	8,731,101	5,457	4,093
Cimarron	9,230,545	5,769	4,327
Eagle Nest	5,759,279	3,600	2,700
Angel Fire	77,040,691	48,150	36,113
County Total	278,453,529	174,033	130,525
Curry (Remainder)	99,358,406	62,099	46,574

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Clovis	630,554,787	394,097	295,573
Clovis Airport (Rmndr)	30,815,763	19,260	14,445
Grady	936,090	585	439
Texico	4,974,080	3,109	2,332
Melrose	4,574,159	2,859	2,144
County Total	771,213,285	482,008	361,506
		-	-
De Baca (Remainder)	4,783,900	2,990	2,242
Fort Sumner	13,908,442	8,693	6,520
County Total	18,692,343	11,683	8,762
Dona Ana (Remainder)	562,352,195	351,470	263,603
Las Cruces	2,077,185,817	1,298,241	973,681
Hatch	22,363,256	13,977	10,483
Mesilla	29,661,542	18,538	13,904
Sunland Park	100,678,662	62,924	47,193
Spaceport City	-	-	-
County Total	2,792,241,472	1,745,151	1,308,863
		-	-
Eddy (Remainder)	648,665,110	405,416	304,062
Carlsbad	563,331,636	352,082	264,062
Artesia	372,844,843	233,028	174,771
Hope	333,508	208	156
Loving	9,298,253	5,811	4,359
County Total	1,594,473,350	996,546	747,409
		-	-
Grant (Remainder)	147,729,168	92,331	69,248
Silver City	261,195,842	163,247	122,436
Bayard	16,368,679	10,230	7,673
Santa Clara (Central)	3,363,093	2,102	1,576
Hurley	9,886,982	6,179	4,635
County Total	438,543,764	274,090	205,567
		-	-
Guadalupe (Remainder)	20,097,512	12,561	9,421
Santa Rosa	63,524,533	39,703	29,777
Vaughn	7,446,033	4,654	3,490
County Total	91,068,078	56,918	42,688
		-	-
Harding (Remainder)	4,544,413	2,840	2,130
Roy	3,015,613	1,885	1,414
Mosquero	949,925	594	445
County Total	8,509,951	5,319	3,989
		-	-
Hidalgo (Remainder)	19,837,545	12,398	9,299
Lordsburg	43,867,639	27,417	20,563
Virden	168,296	105	79
County Total	63,873,480	39,921	29,941
		-	-

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Lea (Remainder)	579,732,935	362,333	271,750
Hobbs	1,157,901,835	723,689	542,766
Lovington Industrial Park (Rmndr)	17,658,202	11,036	8,277
Eunice	67,856,021	42,410	31,808
Jal	24,996,841	15,623	11,717
Lovington	163,893,220	102,433	76,825
Tatum	17,095,062	10,684	8,013
County Total	2,029,134,116	1,268,209	951,157
	-	-	-
Lincoln (Remainder)	123,586,618	77,242	57,931
Ruidoso	268,176,171	167,610	125,708
Capitan	13,076,153	8,173	6,129
Carrizozo	11,015,797	6,885	5,164
Corona	2,655,965	1,660	1,245
Ruidoso Downs	93,877,132	58,673	44,005
County Total	512,387,836	320,242	240,182
	-	-	-
Los Alamos (Remainder)			
Los Alamos	721,396,842	450,873	338,155
County Total	721,396,842	450,873	338,155
	-	-	-
Luna (Remainder)	64,968,862	40,606	30,454
Deming	227,014,539	141,884	106,413
Deming Industrial Park (Rmndr)	5,151,591	3,220	2,415
Columbus	5,959,260	3,725	2,793
County Total	303,094,252	189,434	142,075
	-	-	-
McKinley (Remainder)	445,847,375	278,655	208,991
Gallup	611,027,755	381,892	286,419
County Total	1,056,875,130	660,547	495,410
	-	-	-
Mora (Remainder)	20,670,679	12,919	9,689
Wagon Mound	5,805,157	3,628	2,721
County Total	26,475,836	16,547	12,411
	-	-	-
Otero (Remainder)	188,592,751	117,870	88,403
Alamogordo	535,022,265	334,389	250,792
Cloudcroft	22,588,900	14,118	10,589
Tularosa	23,338,497	14,587	10,940
County Total	769,542,414	480,964	360,723
	-	-	-
Quay (Remainder)	52,292,163	32,683	24,512
Tucumcari	89,515,212	55,947	41,960
Tucumcari Airport		-	-
San Jon	6,754,934	4,222	3,166
Logan	10,000,654	6,250	4,688
House	3,330,504	2,082	1,561
County Total	161,893,466	101,183	75,888
	-	-	-

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Rio Arriba (Remainder)	215,934,483	134,959	101,219
Chama	24,069,734	15,044	11,283
Espanola	251,471,957	157,170	117,877
County Total	491,476,174	307,173	230,379
		-	-
Roosevelt (Remainder)	36,683,777	22,927	17,196
Portales	159,275,267	99,547	74,660
Elida	1,912,996	1,196	897
Dora	2,117,447	1,323	993
Causey	348,788	218	163
Floyd	3,119,891	1,950	1,462
County Total	203,458,166	127,161	95,371
		-	-
Sandoval (Remainder)	272,563,520	170,352	127,764
Bernalillo	88,814,862	55,509	41,632
Jemez Springs	5,039,609	3,150	2,362
Cuba	18,130,291	11,331	8,499
San Ysidro	3,640,508	2,275	1,706
Corrales	57,629,661	36,019	27,014
Rio Rancho	742,458,847	464,037	348,028
County Total	1,188,277,298	742,673	557,005
		-	-
San Juan (Remainder)	1,252,483,176	782,802	587,101
Farmington	1,844,084,469	1,152,553	864,415
Aztec	121,428,469	75,893	56,920
Bloomfield	168,808,279	105,505	79,129
County Total	3,386,804,394	2,116,753	1,587,565
		-	-
San Miguel (Remainder)	49,382,955	30,864	23,148
Las Vegas	251,137,343	156,961	117,721
Pecos	9,435,352	5,897	4,423
Mosquero	66,676	42	31
County Total	310,022,327	193,764	145,323
		-	-
Santa Fe (Remainder)	655,259,044	409,537	307,153
Santa Fe	2,774,832,035	1,734,270	1,300,703
Santa Fe Airport (remainder)	17,332,970	10,833	8,125
Espanola	40,459,656	25,287	18,965
Edgewood	63,097,742	39,436	29,577
County Total	3,550,981,447	2,219,363	1,664,523
		-	-
Sierra (Remainder)	28,114,837	17,572	13,179
Truth or Consequences	79,083,643	49,427	37,070
T or C Airport (rmndr)	1,460,878	913	685
Williamsburg	1,915,879	1,197	898
Elephant Butte	12,157,619	7,599	5,699
County Total	122,732,857	76,708	57,531
		-	-
Socorro (Remainder)	29,446,881	18,404	13,803

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Socorro	119,902,020	74,939	56,204
Socorro Industrial Park (Rmndr)	5,508,572	3,443	2,582
Magdalena	9,615,836	6,010	4,507
County Total	164,473,309	102,796	77,097
	-	-	-
Taos (Remainder)	192,741,116	120,463	90,347
Taos	332,313,194	207,696	155,772
Questa Airport (Rmndr)	672,622	420	315
Taos Airport (Rmndr)	1,253,492	783	588
Questa	13,014,146	8,134	6,100
Red River	33,036,735	20,648	15,486
Taos Ski Valley	39,019,588	24,387	18,290
County Total	612,050,893	382,532	286,899
	-	-	-
Torrance (Remainder)	57,985,641	36,241	27,181
Mountainair	10,515,977	6,572	4,929
Moriarty Airport (Rmndr)	535,196	334	251
Moriarty	73,077,699	45,674	34,255
Willard	511,306	320	240
Encino	981,740	614	460
Estancia	27,041,598	16,901	12,676
County Total	170,649,158	106,656	79,992
	-	-	-
Union (Remainder)	34,045,467	21,278	15,959
Clayton	33,919,508	21,200	15,900
Des Moines	2,555,911	1,597	1,198
Grenville	67,859	42	32
Folsom	464,933	291	218
County Total	71,053,677	44,409	33,306
	-	-	-
Valencia (Remainder)	120,715,178	75,447	56,585
Belen	187,404,376	117,128	87,846
Alexander Airport (Rmndr)	746,277	466	350
Los Lunas	299,844,585	187,403	140,552
Bosque Farms	40,783,817	25,490	19,117
County Total	649,494,233	405,934	304,450

*The impact to the local governments could increase eight-fold if all areas enact the local spaceport gross receipts tax up to the maximum of one-half of one percent.

**At least seventy-five percent of the revenues collected from the local spaceport gross receipts tax must be transferred to the regional spaceport district.

Note: The projected revenues for each area do not include the hold harmless distribution. The hold harmless distribution will increase the amount distributed to the districts.

Source: Taxation and Revenue Department