

1 SENATE BILL 157

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

3 INTRODUCED BY

4 Lee S. Cotter

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10 AN ACT

11 RELATING TO FINANCE; LIMITING THE SPACEPORT AUTHORITY'S POWER
12 TO ISSUE BONDS OR TO REFUND BONDS; LIMITING THE USE OF CERTAIN
13 PROCEEDS OF THE MUNICIPAL AND COUNTY REGIONAL SPACEPORT GROSS
14 RECEIPTS TAX; REQUIRING VOTER APPROVAL FOR ADDITIONAL BONDS.

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

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

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

22 SECTION 2. Section 5-16-13 NMSA 1978 (being Laws 2006,
23 Chapter 15, Section 13) is amended to read:

24 "5-16-13. USE OF REVENUE BY GOVERNMENTAL UNITS.--

25 A. Each governmental unit that is a county or

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1 municipality and is a member of a combination shall have
2 enacted a municipal regional spaceport gross receipts tax or a
3 county regional spaceport gross receipts tax prior to December
4 31, 2008.

5 B. At least seventy-five percent of the municipal
6 regional spaceport gross receipts tax or county regional
7 spaceport gross receipts tax revenues received by each
8 governmental unit ~~[must]~~ shall be used by the district for the
9 financing, planning, designing, engineering and construction of
10 a regional spaceport; provided that the full amount of revenues
11 of the municipal or county regional spaceport gross receipts
12 tax that are received on or after July 1, 2016 pursuant to this
13 subsection shall only be used for:

14 (1) bonds issued prior to July 1, 2016 on
15 behalf of the district pursuant to the terms and conditions of
16 the version of the Spaceport Development Act in effect on the
17 date of issuance of those bonds:

18 (a) to pay principal and interest on
19 those bonds until those bonds are fully retired or discharged;

20 (b) for acceleration of the payment of
21 principal and interest on those bonds or to retire or discharge
22 those bonds prior to their original term; or

23 (c) to refinance or refund those bonds
24 as long as the refinancing or refunding does not increase the
25 amount of outstanding principal owed by the spaceport authority

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1 or by a district; or

2 (2) bonds approved by voters and issued on
3 behalf of the district by the spaceport authority pursuant to
4 Paragraph (8) of Subsection B of Section 58-31-5 NMSA 1978.

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

10 **SECTION 3.** Section 7-19D-15 NMSA 1978 (being Laws 2006,
11 Chapter 15, Section 14) is amended to read:

12 "7-19D-15. MUNICIPAL REGIONAL SPACEPORT GROSS RECEIPTS
13 TAX--AUTHORITY TO IMPOSE--RATE--ELECTION REQUIRED.--

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

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1 gross receipts of a person engaging in business in the
2 municipality. The tax may be referred to as the "municipal
3 regional spaceport gross receipts tax".

4 B. A governing body, at the time of enacting an
5 ordinance imposing a tax authorized in Subsection A of this
6 section:

7 (1) shall dedicate a minimum of seventy-five
8 percent of the revenue from the tax to a regional spaceport
9 district for the financing, planning, designing, engineering
10 and construction of a regional spaceport pursuant to the
11 Regional Spaceport District Act; provided that the full amount
12 of revenues of the municipal regional spaceport gross receipts
13 tax that are received on or after July 1, 2016 pursuant to this
14 subsection shall only be used for:

15 (a) bonds issued prior to July 1, 2016
16 on behalf of a regional spaceport district pursuant to the
17 terms and conditions of the version of the Spaceport
18 Development Act in effect on the date of issuance of those
19 bonds: 1) to pay principal and interest on those bonds until
20 those bonds are fully retired or discharged; 2) for
21 acceleration of the payment of principal and interest on those
22 bonds or to retire or discharge those bonds prior to their
23 original term; or 3) to refinance or refund those bonds as long
24 as the refinancing or refunding does not increase the amount of
25 outstanding principal owed by the spaceport authority or by a

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1 regional spaceport district; or

2 (b) bonds approved by voters and issued
3 on behalf of a regional spaceport district by the spaceport
4 authority pursuant to Paragraph (8) of Subsection B of Section
5 58-31-5 NMSA 1978; and

6 (2) may dedicate no more than twenty-five
7 percent of the revenue for spaceport-related projects as
8 approved by resolution of the governing body of the
9 municipality.

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

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1 Gross Receipts Taxes Act. If the question of imposing the
2 municipal regional spaceport gross receipts tax fails, the
3 governing body shall not again propose the imposition of an
4 increment of the tax for a period of one year from the date of
5 the election.

6 D. Subject to the provisions of Subsection B of
7 this section, the governing body of a municipality imposing the
8 municipal regional spaceport gross receipts tax shall transfer
9 a minimum of seventy-five percent of all proceeds from the tax
10 to the regional spaceport district of which it is a member for
11 regional spaceport purposes in accordance with the provisions
12 of the Regional Spaceport District Act. The governing body of
13 a municipality imposing the municipal regional spaceport gross
14 receipts tax may retain no more than twenty-five percent of the
15 municipal regional spaceport gross receipts tax for spaceport-
16 related projects as approved by resolution of the governing
17 body."

18 SECTION 4. Section 7-20E-25 NMSA 1978 (being Laws 2006,
19 Chapter 15, Section 15) is amended to read:

20 "7-20E-25. COUNTY REGIONAL SPACEPORT GROSS RECEIPTS TAX--
21 AUTHORITY TO IMPOSE--RATE--ELECTION REQUIRED.--

22 A. A majority of the members of the governing body
23 of a county that desires to become a member of a regional
24 spaceport district pursuant to the Regional Spaceport District
25 Act shall impose by ordinance an excise tax at a rate not to

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1 exceed one-half percent of the gross receipts of a person
2 engaging in business in the district area of the county for the
3 privilege of engaging in business. A tax imposed pursuant to
4 this section may be imposed by one or more ordinances, each
5 imposing any number of tax rate increments, but an increment
6 shall not be less than one-sixteenth percent of the gross
7 receipts of a person engaging in business in the district area
8 of the county, and the aggregate of all rates shall not exceed
9 one-half percent of the gross receipts of a person engaging in
10 business in the district area of the county. The tax may be
11 referred to as the "county regional spaceport gross receipts
12 tax".

13 B. A governing body, at the time of enacting an
14 ordinance imposing the tax authorized in Subsection A of this
15 section:

16 (1) shall dedicate a minimum of seventy-five
17 percent of the proceeds of the revenue from the tax to the
18 regional spaceport district for the financing, planning,
19 designing, ~~and~~ engineering and construction of a spaceport or
20 for projects or services of the district pursuant to the
21 Regional Spaceport District Act; provided that the full amount
22 of revenues of the county regional spaceport gross receipts tax
23 that are received on or after July 1, 2016 pursuant to this
24 subsection shall only be used for:

25 (a) bonds issued prior to July 1, 2016

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1 on behalf of a regional spaceport district pursuant to the
2 terms and conditions of the version of the Spaceport
3 Development Act in effect on the date of issuance of those
4 bonds: 1) to pay principal and interest on those bonds until
5 those bonds are fully retired or discharged; 2) for
6 acceleration of the payment of principal and interest on those
7 bonds or to retire or discharge those bonds prior to their
8 original term; or 3) to refinance or refund those bonds as long
9 as the refinancing or refunding does not increase the amount of
10 outstanding principal owed by the spaceport authority or by a
11 regional spaceport district; or

12 (b) bonds approved by voters and issued
13 on behalf of a regional spaceport district by the spaceport
14 authority pursuant to Paragraph (8) of Subsection B of Section
15 58-31-5 NMSA 1978; and

16 (2) may dedicate no more than twenty-five
17 percent of the revenue for spaceport-related projects as
18 approved by resolution of the governing body of the county.

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

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

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

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1 E. As used in this section, "district area of the
2 county" means that portion of a county that is outside the
3 boundaries of a municipality and that is within the boundaries
4 of a regional spaceport district of which the county is a
5 member; provided that if no municipality within the county has
6 imposed a municipal regional spaceport gross receipts tax,
7 "district area of the county" may mean the area within the
8 boundaries of the county that is within the boundaries of a
9 regional spaceport district of which the county is a member."

10 SECTION 5. Section 58-31-1 NMSA 1978 (being Laws 2005,
11 Chapter 128, Section 1) is amended to read:

12 "58-31-1. SHORT TITLE.--~~[This act]~~ Chapter 58, Article 31
13 NMSA 1978 may be cited as the "Spaceport Development Act"."

14 SECTION 6. Section 58-31-5 NMSA 1978 (being Laws 2005,
15 Chapter 128, Section 5, as amended) is amended to read:

16 "58-31-5. AUTHORITY POWERS AND DUTIES.--

17 A. The authority shall:

18 (1) hire an executive director, who shall
19 employ the necessary professional, technical and clerical staff
20 to enable the authority to function efficiently and shall
21 direct the affairs and business of the authority, subject to
22 the direction of the authority;

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

25 (3) advise the governor, the governor's staff

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1 and the New Mexico finance authority oversight committee on
2 methods, proposals, programs and initiatives involving a
3 southwest regional spaceport that may further stimulate space-
4 related business and employment opportunities in New Mexico;

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

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

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

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

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

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

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

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

25 (12) perform environmental, transportation,

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1 communication, land use and other technical studies necessary
2 or advisable for projects and programs or to secure licensing
3 by appropriate United States agencies.

4 B. The authority may:

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

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

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

16 (4) operate spaceport facilities, including
17 acquisition of real property necessary for spaceport facilities
18 and the filing of necessary documents with appropriate
19 agencies;

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

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

25 (7) subject to the provisions of Paragraph (8)

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1 of this subsection, issue revenue bonds and borrow money for
2 the purpose of defraying the cost of acquiring a project by
3 purchase or construction and of securing the payment of the
4 bonds or repayment of a loan;

5 (8) enter into contracts with regional
6 spaceport districts and issue bonds on behalf of regional
7 spaceport districts for the purpose of financing the purchase,
8 construction, renovation, equipping or furnishing of a regional
9 spaceport or a spaceport-related project; provided that on and
10 after July 1, 2016, bonds may only be issued on behalf of a
11 regional spaceport district if a majority of the voters in each
12 municipality or county that form that district vote to approve
13 of the authority issuing those bonds. The governing body of a
14 municipality or county may adopt a resolution calling for an
15 election on the question of approving the issuance of bonds.
16 The question shall be submitted to the voters of a municipality
17 as a separate question at a regular municipal election or at a
18 special election called for that purpose by the governing body.
19 A special municipal election shall be called, conducted and
20 canvassed as provided in the Municipal Election Code. The
21 question shall be submitted to the voters of the district area
22 of a county as a separate question at a general election or at
23 a special election called for that purpose by the governing
24 body. A special county election shall be called, conducted and
25 canvassed substantially in the same manner as provided by law

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1 for general elections. If the majority of voters in each
2 municipality or county voting on the question approves the
3 issuance of bonds, the authority may issue bonds pursuant to
4 this paragraph. As used in this paragraph, "district area of
5 the county" means that portion of a county that is outside the
6 boundaries of a municipality and that is within the boundaries
7 of a regional spaceport district of which the county is a
8 member; provided that, if no municipality within the county has
9 imposed a municipal regional spaceport gross receipts tax,
10 "district area of the county" includes the area within the
11 boundaries of the county that is within the boundaries of a
12 regional spaceport district of which the county is a member;

13 (9) refinance a project;

14 (10) contract with any competent private or
15 public organization or individual to assist in the fulfillment
16 of its duties;

17 (11) fix, alter, charge and collect tolls,
18 fees or rentals and impose any other charges for the use of or
19 for services rendered by any authority facility, program or
20 service; and

21 (12) contract with regional spaceport
22 districts to receive municipal spaceport gross receipts tax and
23 county regional spaceport gross receipts tax revenues; provided
24 that the full amount of revenues of the municipal or county
25 regional spaceport gross receipts tax that are received on or

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1 after July 1, 2016 pursuant to this subsection shall only be
2 used for:

3 (a) bonds issued prior to July 1, 2016
4 on behalf of a regional spaceport district pursuant to the
5 terms and conditions of the version of the Spaceport
6 Development Act in effect on the date of issuance of those
7 bonds: 1) to pay principal and interest on those bonds until
8 those bonds are fully retired or discharged; 2) 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; or 3) to refinance or refund those bonds as long
12 as the refinancing or refunding does not increase the amount of
13 outstanding principal owed by the spaceport authority or by a
14 regional spaceport district; or

15 (b) bonds approved by voters and issued
16 on behalf of a regional spaceport district by the spaceport
17 authority pursuant to Paragraph (8) of this subsection.

18 C. The authority shall not:

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

22 (2) expend funds or incur debt for the
23 improvement, maintenance, repair or addition to property unless
24 it is owned by the authority, the state or a political
25 subdivision of the state."

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1 SECTION 7. Section 58-31-6 NMSA 1978 (being Laws 2005,
2 Chapter 128, Section 6, as amended) is amended to read:

3 "58-31-6. SPACEPORT AUTHORITY--BONDING AUTHORITY--POWER
4 TO ISSUE REVENUE BONDS.--

5 A. Subject to the limitations in Paragraph (12) of
6 Subsection B of Section 58-31-5 NMSA 1978, the authority may
7 issue revenue bonds on its own behalf or on behalf of a
8 regional spaceport district, for regional spaceport purposes
9 and spaceport-related projects. Revenue bonds so issued may be
10 considered appropriate investments for the severance tax
11 permanent fund or collateral for the deposit of public funds if
12 the bonds are rated not less than "A" by a national rating
13 service and both the principal and interest of the bonds are
14 fully and unconditionally guaranteed by a lease agreement
15 executed by an agency of the United States government or by a
16 corporation organized and operating within the United States,
17 that corporation or the long-term debt of that corporation
18 being rated not less than "A" by a national rating service.
19 All bonds issued by the authority are legal and authorized
20 investments for banks, trust companies, savings and loan
21 associations and insurance companies.

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

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C. Authority revenue bonds:

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

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

(3) may mature at any time not exceeding twenty years after the date of issuance if secured by revenue from the county or municipal regional spaceport gross receipts tax or thirty years if secured by revenue from other sources;

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

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

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

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

D. Subject to the approval of the state board of finance, the authority may enter into other financial

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1 arrangements if it determines that the arrangements will assist
2 the authority."

3 SECTION 8. Section 58-31-14 NMSA 1978 (being Laws 2005,
4 Chapter 128, Section 14) is amended to read:

5 "58-31-14. SPACEPORT AUTHORITY REFUNDING BONDS--ESCROW.--

6 A. Refunding bonds issued pursuant to the Spaceport
7 Development Act shall be authorized by resolution of the
8 authority. Any bonds that are refunded under the provisions of
9 this section shall be paid at maturity or on any permitted
10 prior redemption date in the amounts, at the time and places
11 and, if called prior to maturity, in accordance with any
12 applicable notice provisions, all as provided in the
13 proceedings authorizing the issuance of the refunded bonds or
14 otherwise pertaining thereto, except for any such bond that is
15 voluntarily surrendered for exchange or payment by the holder
16 or owner.

17 B. Provision shall be made for paying the bonds
18 refunded at the time provided in this section. The principal
19 amount of the refunding bonds may [~~exceed the principal amount~~
20 ~~of the refunded bonds and may also~~] be less than or the same as
21 the principal amount of the bonds being refunded; provided that
22 provision is duly and sufficiently made for payment of the
23 refunded bonds.

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

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1 refunding bonds, shall either be immediately applied to the
2 retirement of the bonds being refunded or be placed in escrow
3 in a commercial bank or trust company that possesses and is
4 exercising trust powers and that is a member of the federal
5 deposit insurance corporation, to be applied to the payment of
6 the principal of, interest on and any prior redemption premium
7 due in connection with the bonds being refunded; provided that
8 such refunding bond proceeds, including any accrued interest
9 and any premium pertaining to a sale of refunding bonds, may be
10 applied to the establishment and maintenance of a reserve fund
11 and to the payment of expenses incidental to the refunding and
12 the issuance of the refunding bonds, the interest thereon, the
13 principal thereof or both interest and principal as the
14 authority may determine. Nothing in this section requires the
15 establishment of an escrow if the refunded bonds become due and
16 payable within one year from the date of the refunding bonds
17 and if the amounts necessary to retire the refunded bonds
18 within that time are deposited with the paying agent for the
19 refunded bonds. Any such escrow shall not necessarily be
20 limited to proceeds of refunding bonds but may include other
21 money available for its purpose. Any proceeds in escrow
22 pending such use may be invested or reinvested in bills,
23 certificates of indebtedness, notes or bonds that are direct
24 obligations of or the principal and interest of which
25 obligations are unconditionally guaranteed by the United States

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1 or in certificates of deposit of banks that are members of the
2 federal deposit insurance corporation. Such proceeds and
3 investments in escrow, together with any interest or other
4 income to be derived from any such investment, shall be in an
5 amount at all times sufficient as to principal, interest, any
6 prior redemption premium due and any charges of the escrow
7 agent payable to pay the bonds being refunded as they become
8 due at their respective maturities or due at any designated
9 prior redemption date in connection with which the authority
10 shall exercise a prior redemption option. Any purchaser of any
11 refunding bond issued under the Spaceport Development Act is in
12 no manner responsible for the application of the proceeds by
13 the authority or any of its officers, agents or employees.

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

17 **SECTION 9. EFFECTIVE DATE.**--The effective date of the
18 provisions of this act is July 1, 2016.