

SENATE FINANCE COMMITTEE SUBSTITUTE FOR  
SENATE BILL 319

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

AN ACT

RELATING TO INDUSTRIAL REVENUE BONDS; INCLUDING CERTAIN  
ENTERPRISES INVOLVED IN MINING AND ENERGY PRODUCTS AS SUITABLE  
ENTERPRISES FOR A PROJECT; ALLOWING A COMPLAINT REGARDING THE  
AUTHORIZATION TO ISSUE A BOND FOR A PROJECT TO BE FILED FOR A  
PROPOSED ORDINANCE TO AUTHORIZE THE BONDS; REQUIRING THE STATE  
BOARD OF FINANCE TO CONDUCT A HEARING AND MAKE A DETERMINATION  
WITHIN SIXTY DAYS AFTER THE COMPLAINT IS FILED AS TO WHETHER  
THE BOND IN CONNECTION WITH THE PROJECT FOR WHICH THE COMPLAINT  
IS FILED MAY BE ISSUED.

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

**SECTION 1.** Section 4-59-2 NMSA 1978 (being Laws 1975,  
Chapter 286, Section 2, as amended) is amended to read:

"4-59-2. DEFINITIONS.--As used in the County Industrial  
Revenue Bond Act, unless the context clearly indicates

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underscored material = new  
[bracketed material] = delete

1 otherwise:

2 A. "commission" means the governing body of a  
3 county;

4 B. "county" means a county organized or  
5 incorporated in New Mexico;

6 C. "501(c)(3) corporation" means a corporation that  
7 demonstrates to the taxation and revenue department that it has  
8 been granted exemption from the federal income tax as an  
9 organization described in Section 501(c)(3) of the Internal  
10 Revenue Code of 1986, as amended or renumbered;

11 D. "health care service" means the diagnosis or  
12 treatment of sick or injured persons or medical research and  
13 includes the ownership, operation, maintenance, leasing and  
14 disposition of health care facilities, such as hospitals,  
15 clinics, laboratories, x-ray centers and pharmacies;

16 E. "mortgage" means a mortgage or a mortgage and  
17 deed of trust or the pledge and hypothecation of any assets as  
18 collateral security;

19 F. "project" means any land and building or other  
20 improvements thereon, the acquisition by or for a New Mexico  
21 corporation of the assets or stock of an existing business or  
22 corporation located outside the state to be relocated within a  
23 county but, except as provided in Paragraph (1) of Subsection A  
24 of Section 4-59-4 NMSA 1978, not within the boundaries of any  
25 incorporated municipality in the state, and all real and

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1 personal properties deemed necessary in connection therewith,  
2 whether or not now in existence, which shall be suitable for  
3 use by the following or by any combination of two or more  
4 thereof:

5 (1) an industry for the manufacturing,  
6 processing or assembling of agricultural or manufactured  
7 products;

8 (2) a commercial enterprise that has received  
9 a permit from the energy, minerals and natural resources  
10 department for a mine that has not been in operation prior to  
11 the issuance of bonds for the project for which the enterprise  
12 will be involved;

13 (3) a commercial enterprise that has received  
14 a permit from the energy, minerals and natural resources  
15 department for a refinery, treatment plant or processing plant  
16 of energy products that was not in operation prior to the  
17 issuance of bonds for the project for which the enterprise will  
18 be involved;

19 [~~2~~] (4) a commercial enterprise in storing,  
20 warehousing, distributing or selling products of agriculture,  
21 mining or industry, but does not include a facility designed  
22 for the sale or distribution to the public of electricity, gas,  
23 telephone or other services commonly classified as public  
24 utilities, except for:

25 (a) water utilities; and

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1 (b) any electric generation facility  
2 other than one for which both location approval and a  
3 certificate of convenience and necessity are required prior to  
4 commencing construction or operation of the facility, pursuant  
5 to the Public Utility Act; ~~[and the Electric Utility Industry~~  
6 ~~Restructuring Act of 1999;~~

7 ~~(3)]~~ (5) a business in which all or part of  
8 the activities of the business involve the supplying of  
9 services to the general public or to governmental agencies or  
10 to a specific industry or customer;

11 ~~(4)]~~ (6) a nonprofit corporation engaged in  
12 health care services;

13 ~~(5)]~~ (7) a mass transit or other  
14 transportation activity involving the movement of passengers,  
15 an industrial park, an office headquarters and a research  
16 facility;

17 ~~(6)]~~ (8) a water distribution or irrigation  
18 system, including without limitation, pumps, distribution  
19 lines, transmission lines, towers, dams and similar facilities  
20 and equipment; and

21 ~~(7)]~~ (9) a 501(c)(3) corporation; and

22 G. "property" means any land, improvements thereon,  
23 buildings and any improvements thereto, machinery and equipment  
24 of any and all kinds necessary to the project, operating  
25 capital and any other personal properties deemed necessary in

1 connection with the project."

2 SECTION 2. Section 4-59-15 NMSA 1978 (being Laws 1975,  
3 Chapter 286, Section 15) is amended to read:

4 "4-59-15. STATE BOARD OF FINANCE--If any representative  
5 of an existing business or enterprise located within the  
6 boundaries of the county or within five miles of the proposed  
7 project alleges in a written complaint filed with the county  
8 governing body [~~at a~~] within fifteen days of the meeting at  
9 which an ordinance or resolution authorizing the issuance of  
10 bonds [~~hereunder~~] pursuant to the County Industrial Revenue  
11 Bond Act is adopted that the proposed project would directly  
12 and substantially compete with such an existing business or  
13 enterprise located within the boundaries of the county or  
14 within five miles of the proposed project, the bonds in  
15 connection with [~~such~~] that project shall not be issued until  
16 the state board of finance has determined that the proposed  
17 project will not directly or substantially compete with an  
18 existing business or enterprise located within the boundaries  
19 of the county or within five miles of the proposed project.  
20 The state board of finance shall conduct a hearing and make the  
21 determination within sixty days after the complaint is filed."

22 SECTION 3. EFFECTIVE DATE.--The effective date of the  
23 provisions of this act is July 1, 2015.