F I S C A L I M P A C T R E P O R T

SPONSOR Cotter **ORIGINAL DATE** 1/20/2015 **LAST UPDATED** **HB**

SHORT TITLE Limit Spaceport Bond and Tax Authority **SB** 75

ANALYST Graeser

REVENUE (dollars in thousands)

Housing Exhibit

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17	FY18	FY19		
	($600.0)	($600.0)	($600.0)	($600.0)	Recurring	New Mexico Spaceport Authority Operating Funds

(Parenthesis ( ) indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		$600.0	$600.0	$1,200.0	Recurring	Unknown

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Responses Received From
New Mexico Spaceport Authority (NMSA)
New Mexico Finance Authority (NMFA)

SUMMARY

Synopsis of Bill

(NMFA provided the following description.) Senate Bill 75 amends the Regional Spaceport District Act by: 1) removing the ability of the Spaceport Authority Board to delegate its power to an officer or agent for purposes of requesting the Spaceport Authority to issue bonds; 2) removing the ability of the Spaceport District to pledge all or a portion of its revenues to the payment of Spaceport Authority bonds; 3) After July 1, 2015, requiring that the 75 percent share of Spaceport GRT revenues only be used to pay principal and interest of Spaceport bonds already outstanding, including acceleration of the payment of principal and interest until the bonds are fully retired; and 4) removing the ability of the Spaceport Authority to issue revenue bonds and borrow money for the purpose of defraying the cost of acquiring a project by purchase or construction and of securing the payment of the bonds or repayment of a loan.

FISCAL IMPLICATIONS

(NMFA provided the following analysis.) The proposed bill protects Spaceport Authority bonds already outstanding, but restricts the ability of the Spaceport Authority to (i) undertake new projects with borrowed money, and (ii) to use existing 75 percent of gross receipts tax revenues for operating purposes until bonds already outstanding are fully repaid. The NMFA, upon request from the Spaceport Authority, currently releases to the Spaceport Authority any excess funds available after all principal and interest payments are made. The Spaceport Authority has been using those excess funds for operational purposes. This bill would prevent the further release of those funds for operations. Impacts to Spaceport Authority operations are unclear but will likely result in reduced revenues for Spaceport Authority operations in the short term. Over the much longer term, once bond principal and interest payments is accelerated and fully paid-off, Spaceport 75 percent GRT revenues may be available for operations, as there will be no outstanding bond principal and interest.

(The Spaceport Authority provided the following analysis.) "This bill will result in a reduction of New Mexico Spaceport Authority's (NMSA) budget by approximately $600,000 per year, by prohibiting the use of Doña Ana and Sierra County Gross Receipts Tax excess pledged bond revenue for any purpose besides paying off bonds."

"The New Mexico Spaceport Authority has been receiving this excess pledged bond revenue since 2011. The average amount varies per year but has historically been between $200 and $600 thousand. NMSA expects the amount to be roughly $600 thousand in FY16 and FY17. Without this funding, NMSA will not be able to use these funds for any lawful purpose as authorized, such as for the development of new tenant facilities or infrastructure."

LFC comments: these funds will have to be made up, in order for the Spaceport Authority to remain in business. This is shown above in the "**ADDITIONAL OPERATING BUDGET IMPACT**" table at the $600 thousand level estimated as the revenue loss from the bill's provisions.

SIGNIFICANT ISSUES

(NMSA comments.) "Further, SB 75 will prevent any future voter referendums to issue bonds on behalf of the spaceport in any county of the state. In addition, this bill prohibits the spaceport from seeking loans at any time in the future from private institutions where the collateral is spaceport revenue, not state assets. Under NMSA's enabling legislation, the State Board of Finance must already approve any loans sought by NMSA."

"SB 75 is focused on preventing NMSA from receiving the excess pledged bond revenue from the 2009/2010 bonds issued through voter approval in Doña Ana and Sierra Counties for the development of Spaceport America. These funds are managed by the New Mexico Finance Authority (NMFA) and calculated on a yearly basis by NMFA after the bond payments are made and the reserve requirements are met. What is left over is called "excess pledged revenue." Normally bond issuers want the project the bonds were issued for to succeed. Thus, normally these excess funds are, in fact, released to the project if the need warrants it."

"Three Boards governing the release gave their approval in 2011 so that the New Mexico

Spaceport Authority could use the funds for any legal purpose. The Boards are the New Mexico Spaceport Authority, the Spaceport America Regional Spaceport District (SARSD), and the New Mexico Finance Authority. It should be noted that the SARSD Board consists of all elected officials of Dona Ana and Sierra Counties including four County Commissioners - two from each county. The availability of these funds to NMSA is critical at this time since Spaceport America is still in its infancy in a global emerging industry. The release of these excess pledged revenues does not extend the bond pay-off time."

(NMFA comments.) "The inability to raise additional capital funds through bond issuance or private loan is a significant handicap to the NMSA for the long term. The flexibility afforded by issuing bonds backed by taxpayer referendum pledged funds of the Regional Spaceport District (which SB 75 seeks to eliminate) has been critical to the successful development of much of the Spaceport America infrastructure. NMSA would also be unable to tap free market private financing in a bid to build new facilities for current and future customers at Spaceport America. Both of these financing models are central within the Spaceport Development Act and are important tools for the long term viability of the project."

"The bonds the New Mexico Finance Authority has purchased from the Spaceport Authority become further secured in SB 75. However, if Spaceport Authority operations are impaired due to insufficient revenue (whether from losing access to the excess Spaceport 75% GRT or for other reasons), there may be a public perception of bond impairment, even though that will not be the case."

PERFORMANCE IMPLICATIONS

(NMSA comments). "With the recent mishap of the spaceport's anchor tenant, Virgin Galactic, and the associated delay of user fees from Virgin Galactic, SB 75 comes at a very inopportune time, jeopardizing the viability of the spaceport. Without this recurring excess pledged revenue, Spaceport America will not be able to build the kind of infrastructure necessary, at least in the near term, to diversify its tenant base."

"Further, even the introduction of SB 75 makes it more difficult to attract new customers to the spaceport as it gives the appearance that the New Mexico legislature is not fully supportive of the endeavor at a time when the New Mexico Spaceport Authority is very actively seeking new customers that will create new jobs in the State of New Mexico."

ADMINISTRATIVE IMPLICATIONS

None on the State; quite important for the NMSA.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

NMSA points out that there have been bonds issued in 2009/10 and 2011. These bonds are subject to a covenant that the legislature will not alter the underlying revenue stream. While this bill will increase the money available for bond repayment, it, at the same time, decreases operating funding. Without adequate operating funding, Spaceport America may never realize its goal of becoming self-sufficient from user's fees, and no longer needing tax support.

(NMSA comments). "While the original objection giving rise to SB 75 stemmed from the release of the excess pledged revenue, SB 75 goes beyond this objection by prohibiting the New Mexico Spaceport Authority from seeking private loans and by prohibiting voters from raising funds through the issuance of bonds in the future on behalf of the spaceport. NMSA's private loan process is spelled out in Spaceport Development Act and requires State Board of Finance approval. The ability to fund spaceport projects and to raise revenues from the imposition of gross receipts taxes are a right of New Mexico's voters and are spelled out in the Regional Spaceport District Act and the Municipal and County Regional Spaceport Gross Receipts Tax authorizations. SB75 may be in conflict with these existing statutes."

LG/bb