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FISCAL IMPACT REPORT

SPONSOR Papen ORIGINAL DATE 03/09/17
LAST UPDATED _____ HB _____

SHORT TITLE Spaceport Confidential Records Act SB 429

ANALYST Hanika-Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		see fiscal impact				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Spaceport Authority

SUMMARY

Synopsis of Bill

Senate Bill 429 (SB 429) enacts the spaceport confidential records act as follows:

Section 1 and 2 cite the proposed act and purpose of the act to:

- protect private entity customer information related to developing space business,
- foster an environment in which private entities establish businesses and create jobs, and
- protect cyber infrastructure that could be used to plan or execute a terrorist attack.

Section 3 provides for definitions in the act such as “cyberinfrastructure information” which includes computing, data storage, and spaceport facility technology information; “customer” to mean a person, organization, or business providing or proposing to provide revenue to the authority; and “customer information” to include identities, agreements, and payments.

Section 4 makes confidential cyberinfrastructure and security information, and customer information unless the customer does not consider the records to be proprietary or confidential.

Section 5 amends Section 14-2-1 NMSA 1978 to add confidential Spaceport records to the list of exceptions in the Inspection of Public Records Act.

FISCAL IMPLICATIONS

The bill exempts from public inspection, records relating to customer agreements and payments.

The Spaceport is not yet self sufficient. The Spaceport received \$444 thousand in GF and \$4 million in other revenues for FY17. The Spaceport has 9 permanent FTE, and 11 temporary FTE.

Virgin Galactic is Spaceport's largest tenant. The Virgin Galactic lease is \$1 million and will rise to \$3 million in FY18, regardless whether launches start. With an expected commercial launch in FY18, Spaceport did not request an additional GF appropriation but increased other revenues. Contracts will increase for FY18 due to Federal Aviation Administration environmental studies that used to be expensed through capital outlay as part of building expenses. However, now that construction is complete, the studies will become a contractual cost in the operating budget.

The Legislature appropriated \$142.2 million in capital outlay funding for planning, design, and construction of Spaceport America and related infrastructure, with bond proceeds from an incremental GRT imposed by Sierra and Dona Ana counties, the total cost rises to \$218 million.

SIGNIFICANT ISSUES

The bill creates protection for confidential records submitted by potential customers to the Spaceport. It also protects information that could be used for a future terrorist attack. Finally, it adds an exception for confidential Spaceport records to the Inspection of Public Records Act.

The Spaceport has had inquiries from potential clients regarding confidentiality of submittals.

The Spaceport Authority reported that it is unclear if the statutory ability to keep certain records confidential that is afforded to the NM Economic Development Department (NMEDD) apply to Spaceport America, which is an independent agency administratively attached to NMEDD.

Although there are protections for trade secrets under New Mexico law, specific protections for potential clients of Spaceport America may help increase customer solicitation.

OTHER SUBSTANTIVE ISSUES

The Spaceport Development Act was adopted to develop spaceport facilities in New Mexico, attract businesses to create jobs, create a legal framework to enable spaceport operations, and to promote STEM educational activities. Spaceport America has completed construction utilizing 18,000 acres of land within 6,000 miles of restricted airspace. Spaceport America has five permanent aerospace tenants and has had 31 vertical launches and five aerial missions to date.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

There will be no specific protections of records submitted by clients to Spaceport America.

AHO/jle