

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR  
SENATE BILL 98

**53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

AN ACT

RELATING TO PUBLIC RECORDS; PROVIDING FOR THE PROTECTION OF  
CERTAIN INFORMATION RELATED TO THE COMMERCIAL AEROSPACE  
INDUSTRY; AMENDING THE INSPECTION OF PUBLIC RECORDS ACT;  
AMENDING THE SPACEPORT DEVELOPMENT ACT.

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

SECTION 1. Section 14-2-6 NMSA 1978 (being Laws 1993,  
Chapter 258, Section 3, as amended by Laws 2013, Chapter 117,  
Section 1 and by Laws 2013, Chapter 214, Section 2) is amended  
to read:

"14-2-6. DEFINITIONS.--As used in the Inspection of  
Public Records Act:

A. "custodian" means any person responsible for the  
maintenance, care or keeping of a public body's public records,  
regardless of whether the records are in that person's actual

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underscoring material = new  
~~[bracketed material] = delete~~

1 physical custody and control;

2 B. "file format" means the internal structure of an  
3 electronic file that defines the way it is stored and used;

4 C. "inspect" means to review all public records  
5 that are not excluded in Section 14-2-1 NMSA 1978;

6 D. "person" means any individual, corporation,  
7 partnership, firm, association or entity;

8 E. "protected personal identifier information"  
9 means:

10 (1) all but the last four digits of a:

11 (a) taxpayer identification number;

12 (b) financial account number; or

13 (c) driver's license number;

14 (2) all but the year of a person's date of  
15 birth; and

16 (3) a social security number;

17 F. "public body" means the executive, legislative  
18 and judicial branches of state and local governments and all  
19 advisory boards, commissions, committees, agencies or entities  
20 created by the constitution or any branch of government that  
21 receives any public funding, including political subdivisions,  
22 special taxing districts, school districts and institutions of  
23 higher education; [~~and~~]

24 G. "public records" means all documents, papers,  
25 letters, books, maps, tapes, photographs, recordings and other

1 materials, regardless of physical form or characteristics, that  
 2 are used, created, received, maintained or held by or on behalf  
 3 of any public body and relate to public business, whether or  
 4 not the records are required by law to be created or  
 5 maintained; and

6 H. "trade secret" means trade secret as defined in  
 7 Subsection D of Section 57-3A-2 NMSA 1978."

8 **SECTION 2.** Section 58-31-1 NMSA 1978 (being Laws 2005,  
 9 Chapter 128, Section 1) is amended to read:

10 "58-31-1. SHORT TITLE.--~~[This act]~~ Chapter 58, Article 31  
 11 NMSA 1978 may be cited as the "Spaceport Development Act"."

12 **SECTION 3.** A new section of the Spaceport Development Act  
 13 is enacted to read:

14 "[NEW MATERIAL] INFORMATION NOT SUBJECT TO DISCLOSURE.--

15 A. The following information shall be confidential  
 16 and not subject to inspection pursuant to the Inspection of  
 17 Public Records Act:

18 (1) information obtained by the authority that  
 19 is related to specific technical or business information that  
 20 is proprietary and is related to the possible relocation,  
 21 expansion or operation of its aerospace customers;

22 (2) trade secrets, as defined in Subsection D  
 23 of Section 57-3A-2 NMSA 1978; provided that "independent  
 24 economic value" as used in that definition includes information  
 25 created, obtained or in the possession of the authority that

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1 derives actual or potential value for the business operation of  
2 the authority;

3 (3) the identity of authority aerospace  
4 customers, if nondisclosure is requested by the customer; and

5 (4) information that would compromise the  
6 physical security or cybersecurity of authority facilities.

7 B. The presence in a record of information that  
8 need not be disclosed pursuant to Subsection A of this section  
9 does not exempt the record from disclosure."