

State of New Mexico
House of Representatives

FIFTY-FIFTH LEGISLATURE
FIRST SESSION

February 16, 2021

HOUSE FLOOR AMENDMENT number _____ to HOUSE BILL 105, as amended

Amendment sponsored by Representative *Scott*

1. On page 1, line 11, before "CHANGING", insert "AMENDING AND REPEALING SECTIONS OF THE INDUSTRIAL REVENUE BOND ACT TO REMOVE CERTAIN ELECTRIC TRANSMISSION FACILITIES AS ELIGIBLE PROJECTS; AMENDING AND REPEALING SECTIONS OF THE COUNTY INDUSTRIAL REVENUE BOND ACT TO REMOVE CERTAIN ELECTRIC TRANSMISSION FACILITIES AS ELIGIBLE PROJECTS;".

2. On page 1, lines 15 through 17, strike "CLARIFYING THAT CERTAIN PAYMENTS TO THE STATE FOR AN ELECTRIC TRANSMISSION PROJECT SHALL BE MADE BY THE PERSON PROPOSING THE ELECTRIC TRANSMISSION PROJECT;".

3. On page 1, between lines 19 and 20, insert the following:

"SECTION 1. Section 3-32-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-31-1, as amended) is amended to read:

"3-32-1. INDUSTRIAL REVENUE BOND ACT--DEFINITIONS.--Wherever used in the Industrial Revenue Bond Act unless a different meaning clearly appears in the context, the following terms whether used in the singular or plural shall be given the following respective interpretations:

A. "municipality" means a city, town or village in New Mexico;

B. "project" means any land and building or other improvements thereon, the acquisition by or for a New Mexico corporation of the assets or stock of an existing business or corporation located outside the state to be relocated within or near

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the municipality in the state and all real and personal properties deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for use by the following or by any combination of two or more thereof:

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

(2) a commercial enterprise in storing, warehousing, distributing or selling products of agriculture, mining or industry but does not include a facility designed for the sale of goods or commodities at retail or distribution to the public of electricity, gas, water or telephone or other services commonly classified as public utilities;

(3) a business in which all or part of the activities of the business involve the supplying of services to the general public or to governmental agencies or to a specific industry or customer but does not include an establishment primarily engaged in the sale of goods or commodities at retail;

(4) a water distribution or irrigation system, including without limitation, pumps, distribution lines, transmission lines, towers, dams and similar facilities and equipment, designed to provide water to a vineyard or winery;

(5) an electric generation [~~or transmission~~] facility other than one for which both location approval and a certificate of convenience and necessity are required prior to commencing construction or operation of the facility, pursuant to the Public Utility Act; and

(6) a 501(c)(3) corporation;

C. "governing body" means the board or body in which the legislative powers of the municipality are vested;

D. "property" means any land, improvements thereon, buildings and any improvements thereto, machinery and equipment of any and all kinds necessary to the project, operating capital and

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any other personal properties deemed necessary in connection with the project;

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

F. "health care service" means the diagnosis or treatment of sick or injured persons or medical research and includes the ownership, operation, maintenance, leasing and disposition of health care facilities such as hospitals, clinics, laboratories, x-ray centers and pharmacies and, for any small municipality only, office facilities for physicians;

G. "refinance a hospital or 501(c)(3) corporation project" means the issuance of bonds by a municipality and the use of all or substantially all of the proceeds to liquidate any obligations previously incurred to finance or aid in financing a project of a nonprofit corporation engaged in health care services, including nursing homes, or of a 501(c)(3) corporation, which would constitute a project under the Industrial Revenue Bond Act had it been originally undertaken and financed by a municipality pursuant to the Industrial Revenue Bond Act; and

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

4. On page 2, line 13, strike "or transmission".

5. On page 5, lines 1 through 24, strike Section 2 in its entirety and insert in lieu thereof the following:

"SECTION 3. 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 otherwise:

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- A. "commission" means the governing body of a county;
- B. "county" means a county organized or incorporated in New Mexico;
- C. "501(c)(3) corporation" means a corporation that demonstrates to the taxation and revenue department that it has been granted exemption from the federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended or renumbered;
- D. "health care service" means the diagnosis or treatment of sick or injured persons or medical research and includes the ownership, operation, maintenance, leasing and disposition of health care facilities, such as hospitals, clinics, laboratories, x-ray centers and pharmacies;
- E. "mortgage" means a mortgage or a mortgage and deed of trust or the pledge and hypothecation of any assets as collateral security;
- F. "project" means any land and building or other improvements thereon, the acquisition by or for a New Mexico corporation of the assets or stock of an existing business or corporation located outside the state to be relocated within a county but, except as provided in Paragraph (1) of Subsection A of Section 4-59-4 NMSA 1978, not within the boundaries of any incorporated municipality in the state, and all real and personal properties deemed necessary in connection therewith, whether or not now in existence, that shall be suitable for use by the following or by any combination of two or more thereof:
- (1) an industry for the manufacturing, processing or assembling of agricultural or manufactured products;
 - (2) a commercial enterprise that has received a permit from the energy, minerals and natural resources department for a mine that has not been in operation prior to the issuance of bonds for the project for which the enterprise will be involved;

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(3) a commercial enterprise that has received any necessary state permit for a refinery, treatment plant or processing plant of energy products that was not in operation prior to the issuance of bonds for the project for which the enterprise will be involved;

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

(a) water utilities; and

(b) any electric generation [~~or transmission~~] facility other than one for which both location approval and a certificate of convenience and necessity are required prior to commencing construction or operation of the facility, pursuant to the Public Utility Act;

(5) a business in which all or part of the activities of the business involve the supplying of services to the general public or to governmental agencies or to a specific industry or customer;

(6) a nonprofit corporation engaged in health care services;

(7) a mass transit or other transportation activity involving the movement of passengers, an industrial park, an office headquarters and a research facility;

(8) a water distribution or irrigation system, including without limitation, pumps, distribution lines, transmission lines, towers, dams and similar facilities and equipment; and

(9) a 501(c)(3) corporation; and

G. "property" means any land, improvements thereon,

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buildings and any improvements thereto, machinery and equipment of any and all kinds necessary to the project, operating capital and any other personal properties deemed necessary in connection with the project."".

6. On page 6, line 14, strike "or transmission".
7. On page 7, line 22, through page 8, line 19, strike Section 4 in its entirety and insert in lieu thereof the following:

"SECTION 5. REPEAL.--Sections 3-32-6.2 and 4-59-4.2 NMSA 1978 (being Laws 2020, Chapter 14, Sections 3 and 6) are repealed."
8. Renumber sections to correspond with these amendments.



Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____