

SENATE BILL

**58TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2027**

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO INDUSTRIAL REVENUE BONDS; ELIMINATING THE ABILITY  
OF A MUNICIPALITY TO ISSUE INDUSTRIAL REVENUE BONDS FOR  
PROJECTS LOCATED OUTSIDE THE CORPORATE LIMITS OF THE  
MUNICIPALITY; EXPANDING REQUIREMENTS FOR PAYMENTS IN LIEU OF  
TAXES; LIMITING TAX EXEMPTIONS TO PROPERTY TAX INCREASES  
IMPOSED PRIOR TO THE ISSUANCE OF A BOND; REQUIRING FISCAL  
ANALYSIS AND A REPORT FROM THE STATE BOARD OF FINANCE TO BE  
COMPLETED AND PRESENTED TO THE LEGISLATURE PRIOR TO THE  
ISSUANCE OF A BOND; REQUIRING THE LEGISLATURE TO APPROVE A BOND  
PRIOR TO THE ISSUANCE OF THE BOND; REQUIRING THE ECONOMIC  
DEVELOPMENT DEPARTMENT TO CREATE AND MAINTAIN AN INDUSTRIAL  
REVENUE BOND DATABASE; MAKING AN APPROPRIATION.

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

**SECTION 1.** Section 3-32-6 NMSA 1978 (being Laws 1965,

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Chapter 300, Section 14-31-3, as amended) is amended to read:

"3-32-6. ADDITIONAL POWERS CONFERRED ON MUNICIPALITIES.--

In addition to any other powers that it may now have, a municipality shall have the following powers:

A. to acquire, whether by construction, purchase, gift or lease, one or more projects that shall be located within ~~[this state and may be located within or without the municipality or partially within or partially without the municipality, but which shall not be located more than fifteen miles outside of]~~ the corporate limits of the municipality; provided that:

(1) urban transit buses qualifying as a project pursuant to Subsection B of Section 3-32-3 NMSA 1978 need not be continuously located within this state, but the commercial enterprise using the urban transit buses for leasing shall meet the location requirement of this subsection; and

(2) ~~[a municipality shall not acquire any electricity generation facility, transmission facility or energy storage facility project unless the]~~ school districts within the municipality in which ~~[the]~~ a project is located shall receive annual in-lieu tax payments; provided that the annual in-lieu tax payments required by this paragraph shall be:

(a) payable to the school districts for the period the municipality owns and leases the project;

1 (b) in an aggregate amount equal to the  
2 amount received by the municipality multiplied by the  
3 percentage determined by dividing the average of mills imposed  
4 by the school districts within the municipality plus state debt  
5 service mills as of the date of issuance of the bonds by the  
6 average of the mills imposed by all entities levying taxes on  
7 property in the municipality as of such date;

8 (c) divided among the school districts  
9 located within the municipality, if there is more than one  
10 school district in such municipality, and the in-lieu payment  
11 shall be allocated as follows: 1) fifty percent allocated  
12 equally among all school districts in which the project is  
13 located; 2) forty percent allocated to the school districts  
14 within the municipality in proportion to the area of each  
15 school district within the municipality; and 3) ten percent  
16 allocated to the school districts in proportion to the average  
17 of each school district's student membership pursuant to the  
18 Public School Code reported on the second and third reporting  
19 dates for the most recent school year for which data is  
20 available as of the date of issuance of the bonds; and

21 (d) for each individual school district  
22 located within the municipality, no less than the amount due to  
23 the school district in the tax year immediately preceding the  
24 issuance of the bonds from the property included in a project,  
25 had such project not been created;

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underscored material = new  
[bracketed material] = delete

1           B. to sell or lease or otherwise dispose of any or  
2 all of its projects upon such terms and conditions as the  
3 governing body may deem advisable and as shall not conflict  
4 with the provisions of the Industrial Revenue Bond Act;

5           C. to issue revenue bonds for the purpose of  
6 defraying the cost of acquiring by construction and purchase,  
7 or either, any project and to secure the payment of such bonds,  
8 all as provided in the Industrial Revenue Bond Act. No  
9 municipality shall have the power to operate any project as a  
10 business or in any manner except as lessor;

11           D. to refinance one or more hospital or 501(c)(3)  
12 corporation projects and to acquire any such hospital or  
13 501(c)(3) corporation project whether by construction,  
14 purchase, gift or lease, which hospital or 501(c)(3)  
15 corporation project shall be located within this state and may  
16 be located within ~~[or without the municipality or partially~~  
17 ~~within or partially without the municipality, but which shall~~  
18 ~~not be located more than fifteen miles outside of]~~ the  
19 corporate limits of the municipality, and to issue revenue  
20 bonds to refinance and acquire a hospital or 501(c)(3)  
21 corporation project and to secure the payment of such bonds,  
22 all as provided in the Industrial Revenue Bond Act. A  
23 municipality shall not have the power to operate a hospital or  
24 501(c)(3) corporation project as a business or in any manner  
25 except as lessor; and

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1 E. to refinance one or more projects of any private  
2 institution of higher education and to acquire any such  
3 project, whether by construction, purchase, gift or lease;  
4 provided that the project shall be located within [~~this state~~  
5 ~~and may be located within or without the municipality or~~  
6 ~~partially within or partially without the municipality, but the~~  
7 ~~project shall not be located more than fifteen miles outside~~  
8 ~~of~~] the corporate limits of the municipality, and to issue  
9 revenue bonds to refinance and acquire any project of any  
10 private institution of higher education and to secure the  
11 payment of such bonds. A municipality shall not have the power  
12 to operate a project of a private institution of higher  
13 education as a business or in any manner except as lessor."

14 SECTION 2. Section 3-32-6.2 NMSA 1978 (being Laws 2020,  
15 Chapter 14, Section 3, as amended) is amended to read:

16 "3-32-6.2. [~~ELECTRIC TRANSMISSION PROJECTS~~] PAYMENTS TO  
17 THE STATE.--A person proposing [~~an electric transmission~~  
18 ~~facility~~] a project pursuant to [~~Paragraph (2) of Subsection A~~  
19 ~~of Section 3-32-6 NMSA 1978~~] the Industrial Revenue Bond Act  
20 shall pay to the state annual payments equal to five percent of  
21 the total amount of in-lieu tax payments to be made in that  
22 calendar year by such person to counties, municipalities and  
23 other local entities authorized to levy taxes on property  
24 including in-lieu tax payments made to school districts  
25 pursuant to Paragraph (2) of Subsection A of Section 3-32-6

1 NMSA 1978, and five percent of the value of any other  
2 consideration related to the project paid to local entities  
3 authorized to levy taxes on property by a person proposing ~~an~~  
4 ~~electric transmission~~ a project. A copy of any agreement  
5 providing for such in-lieu tax payments shall be provided to  
6 the secretary of finance and administration within thirty days  
7 of written approval of such agreement by all of the parties.  
8 Each annual payment to the state shall be made no later than  
9 the end of each fiscal year in which in-lieu tax payments are  
10 made to local taxing entities. Each annual payment shall be  
11 made to the department of finance and administration for  
12 deposit to the general fund."

13 SECTION 3. Section 3-32-14 NMSA 1978 (being Laws 1965,  
14 Chapter 300, Section 14-31-11) is amended to read:

15 "3-32-14. EXEMPTION FROM TAXATION.--

16 ~~[The bonds]~~ A. Except as provided in Subsection B  
17 of this section, a bond authorized by [Sections 14-31-1 through  
18 14-31-13 New Mexico Statutes Annotated, 1953 Compilation] the  
19 Industrial Revenue Bond Act and the income from ~~[said bonds]~~  
20 the bond, all mortgages or other security instrument executed  
21 as security for ~~[said bonds]~~ the bond, all lease agreements  
22 made pursuant to the provisions ~~[hereof]~~ of the Industrial  
23 Revenue Bond Act and revenue derived from any lease or sale by  
24 the municipality thereof shall be exempt from all taxation by  
25 the state of New Mexico or any subdivision thereof.

1           B. For bonds issued on or after the effective date  
2 of this 2027 act, the exemption provided by Subsection A of  
3 this section shall not apply to property taxes levied upon  
4 approval by the qualified electorate of the taxing district in  
5 which the applicable project is located."

6           SECTION 4. A new section of the Industrial Revenue Bond  
7 Act is enacted to read:

8           "[NEW MATERIAL] REPORT TO LEGISLATURE--LEGISLATIVE  
9 APPROVAL REQUIRED PRIOR TO ISSUANCE.--

10           A. Prior to the issuance of a bond and within  
11 forty-five days of receiving a proposed bond application, the  
12 state board of finance shall review the proposed bond's  
13 application and associated planning and proposal documents to  
14 conduct a fiscal analysis and complete a report. The report  
15 shall include:

- 16                   (1) the estimated value of tax exemptions  
17 allowed pursuant to Section 3-32-14 NMSA 1978;  
18                   (2) the estimated value of state economic  
19 incentives for which the project may be eligible;  
20                   (3) the project's expected number of new jobs  
21 and the average range of wages associated with those jobs;  
22                   (4) a determination as to whether the proposed  
23 bond meets the legislative intent of the Industrial Revenue  
24 Bond Act; and  
25                   (5) any other analysis or information that the

1 state board of finance deems relevant.

2 B. After completing the fiscal analysis, the state  
3 board of finance shall:

4 (1) within ten days, provide the report to the  
5 municipality in which the project is proposed to be located;  
6 and

7 (2) before the close of the regular  
8 legislative session each year, present the report to the  
9 legislature.

10 C. The issuance of the bonds and the maximum amount  
11 of bonds to be issued shall be specifically authorized by law."

12 SECTION 5. A new section of the Industrial Revenue Bond  
13 Act is enacted to read:

14 "[NEW MATERIAL] INDUSTRIAL BOND DATABASE.--Prior to July  
15 1, 2028, the economic development department shall create and  
16 maintain an online and publicly searchable database of  
17 information related to each bond issued under the provisions of  
18 the Industrial Revenue Bond Act. The economic development  
19 department shall work in collaboration with the department of  
20 finance and administration and the taxation and revenue  
21 department, as necessary. For each bond issued, the database  
22 shall include:

23 A. the cumulative and annual estimated or, if  
24 known, actual amount of property tax forgone over the life of  
25 the bond;

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- 1           B. employment projections and employment outcomes;
- 2           C. if relevant, the cumulative and annual amount of
- 3 any incentive or subsidy provided by the state intended to
- 4 reduce investment or operating costs received by a project;
- 5           D. a listing of the bond's:
- 6               (a) beneficiary;
- 7               (b) approved and issued principal
- 8 amounts;
- 9               (c) current project status; and
- 10              (d) maturity date; and
- 11           E. any other information the economic development
- 12 department deems relevant."

13           **SECTION 6.** Section 4-59-4 NMSA 1978 (being Laws 1975,

14 Chapter 286, Section 4, as amended) is amended to read:

15           "4-59-4. ADDITIONAL POWERS CONFERRED ON COUNTIES.--In

16 addition to any other powers that it may now have, each county

17 shall have the following powers:

18               A. to acquire, whether by construction, purchase,

19 gift or lease, one or more projects, which shall be located

20 within this state and shall be located within the county

21 outside the boundaries of any incorporated municipality;

22 provided, however, that:

23                   (1) a class A county with a population of more

24 than three hundred thousand may acquire projects located

25 anywhere in the county; and

1 (2) a county shall not acquire ~~[any~~  
2 ~~electricity generation facility, transmission facility or~~  
3 ~~energy storage facility]~~ a project unless the school districts  
4 within the county in which ~~[the]~~ a project is located receive  
5 annual in-lieu tax payments; provided that the annual in-lieu  
6 tax payments required by this paragraph shall be:

7 (a) payable to the school districts for  
8 the period the county owns and leases the project;

9 (b) in an aggregate amount equal to the  
10 amount received by the county multiplied by the percentage  
11 determined by dividing the average of all of the mills imposed  
12 by the school districts in the county, including the operating,  
13 capital improvement, building improvement, education technology  
14 and bond mills imposed by the school districts in the county  
15 plus state debt service mills as of the date of issuance of the  
16 bonds by the average of the mills imposed by all entities  
17 levying taxes on property in the county as of such date;

18 (c) divided among the school districts  
19 located within the county, and if there is more than one school  
20 district in such county, the in-lieu payment shall be allocated  
21 as follows: 1) fifty percent allocated equally among all  
22 school districts in which the project is located; 2) forty  
23 percent allocated to the school districts within the county in  
24 proportion to the area of each school district within the  
25 county; and 3) ten percent allocated to the school districts in

1 proportion to the average of each school district's student  
2 membership pursuant to the Public School Code reported on the  
3 second and third reporting dates for the most recent school  
4 year for which data is available as of the date of issuance of  
5 the bonds; and

6 (d) for each individual school district  
7 located within the county, no less than the amount due to the  
8 school district in the tax year immediately preceding the  
9 issuance of the bonds from the property included in a project,  
10 had such project not been created;

11 B. to sell or lease or otherwise dispose of any or  
12 all of its projects upon such terms and conditions as the  
13 commission may deem advisable and as shall not conflict with  
14 the provisions of the County Industrial Revenue Bond Act; and

15 C. to issue revenue bonds for the purpose of  
16 defraying the cost of acquiring, by construction and purchase  
17 or either, any project and to secure the payment of such bonds,  
18 all as provided in the County Industrial Revenue Bond Act. No  
19 county shall have the power to operate any project as a  
20 business or in any manner except as lessor thereof."

21 SECTION 7. Section 4-59-4.2 NMSA 1978 (being Laws 2020,  
22 Chapter 14, Section 6, as amended) is amended to read:

23 "4-59-4.2. [~~ELECTRIC TRANSMISSION PROJECTS~~] PAYMENTS TO  
24 THE STATE.--A person proposing [~~an electric transmission~~  
25 ~~facility project pursuant to Paragraph (2) of Subsection A of~~  
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1 ~~Section 4-59-4 NMSA 1978~~] a project pursuant to the County  
2 Industrial Revenue Bond Act shall pay to the state annual  
3 payments equal to five percent of the total amount of in-lieu  
4 tax payments to be made in that calendar year by such person to  
5 counties, municipalities and other local entities authorized to  
6 levy taxes on property, including in-lieu tax payments made to  
7 school districts pursuant to Paragraph (2) of Subsection A of  
8 Section 4-59-4 NMSA 1978, and five percent of the value of any  
9 other consideration related to the project paid to local  
10 entities authorized to levy taxes on property by a person  
11 proposing [~~an electric transmission~~] a project. A copy of any  
12 agreement providing for such in-lieu tax payments shall be  
13 provided to the secretary of finance and administration within  
14 thirty days of written approval of such agreement by all of the  
15 parties. Each annual payment to the state shall be made no  
16 later than the end of each fiscal year in which in-lieu tax  
17 payments are made to local taxing entities. Each annual  
18 payment shall be made to the department of finance and  
19 administration for deposit to the general fund."

20 SECTION 8. Section 4-59-12 NMSA 1978 (being Laws 1975,  
21 Chapter 286, Section 12) is amended to read:

22 "4-59-12. EXEMPTION FROM TAXATION.--

23 [~~The bonds~~] A. Except as provided in Subsection B  
24 of this section, a bond authorized by the County Industrial  
25 Revenue Bond Act and the income from the [~~bonds~~] bond, all

1 mortgages or other security instruments executed as security  
2 for the ~~[bonds]~~ bond, all lease agreements made pursuant to the  
3 provisions of the County Industrial Revenue Bond Act and  
4 revenue derived from any lease or sale by the county shall be  
5 exempt from all taxation by New Mexico or any subdivision of  
6 it.

7 B. For bonds issued on or after the effective date  
8 of this 2027 act, the exemption provided by Subsection A of  
9 this section shall not apply to property taxes levied upon  
10 approval by the qualified electorate of the taxing district in  
11 which the applicable project is located."

12 SECTION 9. A new section of the County Industrial Revenue  
13 Bond Act is enacted to read:

14 "[NEW MATERIAL] REPORT TO LEGISLATURE--LEGISLATIVE  
15 APPROVAL REQUIRED PRIOR TO ISSUANCE.--

16 A. Prior to the issuance of a bond and within  
17 forty-five days of receiving a proposed bond application, the  
18 state board of finance shall review the proposed bond's  
19 application and associated planning and proposal documents to  
20 conduct a fiscal analysis and complete a report. The report  
21 shall include:

22 (1) the estimated value of tax exemptions  
23 allowed pursuant to Section 4-59-12 NMSA 1978;

24 (2) the estimated value of state economic  
25 incentives for which the project may be eligible;

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1 (3) the project's expected number of new jobs  
2 and the average range of wages associated with those jobs;

3 (4) a determination as to whether the proposed  
4 bond meets the legislative intent of the County Industrial  
5 Revenue Bond Act; and

6 (5) any other analysis or information that the  
7 state board of finance deems relevant.

8 B. After completing the fiscal analysis, the state  
9 board of finance shall:

10 (1) within ten days, provide the report to the  
11 county in which the project is proposed to be located; and

12 (2) before the close of the regular  
13 legislative session each year, present the report to the  
14 legislature.

15 C. The issuance of the bonds and the maximum amount  
16 of bonds to be issued shall be specifically authorized by law."

17 **SECTION 10.** A new section of the County Industrial  
18 Revenue Bond Act is enacted to read:

19 "[NEW MATERIAL] INDUSTRIAL BOND DATABASE.--Prior to July  
20 1, 2028, the economic development department shall create and  
21 maintain an online and publicly searchable database of  
22 information related to each bond issued under the provisions of  
23 the County Industrial Revenue Bond Act. The economic  
24 development department shall work in collaboration with the  
25 department of finance and administration and the taxation and

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1 revenue department, as necessary. For each bond issued, the  
2 database shall include:

3 A. the cumulative and annual estimated or, if  
4 known, actual amount of property tax forgone over the life of  
5 the bond;

6 B. employment projections and employment outcomes;

7 C. if relevant, the cumulative and annual amount of  
8 any incentive or subsidy provided by the state intended to  
9 reduce investment or operating costs received by a project;

10 D. a listing of the bond's:

11 (a) beneficiary;

12 (b) approved and issued principal  
13 amounts;

14 (c) current project status; and

15 (d) maturity date; and

16 E. any other information the economic development  
17 department deems relevant."

18 SECTION 11. APPROPRIATION.--Two hundred fifty thousand  
19 dollars (\$250,000) is appropriated from the general fund to the  
20 local government division of the department of finance and  
21 administration for expenditure in fiscal years 2028 through  
22 2030 to carry out the purposes of this act. Any unexpended  
23 balance remaining at the end of fiscal year 2030 shall revert  
24 to the general fund.

25 SECTION 12. APPLICABILITY.--The provisions of this act  
26 .234809.2

1     apply to bonds issued pursuant to the Industrial Revenue Bond  
2     Act or the County Industrial Revenue Bond Act on or after July  
3     1, 2027.

4             **SECTION 13.   EFFECTIVE DATE.**--The effective date of the  
5     provisions of this act is July 1, 2027.

6                             - 16 -