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## FISCAL IMPACT REPORT

SPONSOR Hochman-Vigil ORIGINAL DATE 02/01/21  
LAST UPDATED \_\_\_\_\_ HB 68  
SHORT TITLE Space Flight Informed Consent Act Changes SB \_\_\_\_\_  
ANALYST Martinez

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23		
\$7,658.0	\$8,070.0	\$9,000.0	Recurring	Spaceport Authority Operating Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Spaceport Authority (NMSA)

### SUMMARY

#### Synopsis of Bill

House Bill 68 (HB68) broadens the definition of spaceflight companies in the Spaceflight Informed Consent Act and removes the provision for automatic repeal, in order that the act will continue indefinitely.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

### FISCAL IMPLICATIONS

HB68 does not contain an appropriation.

The projected revenue growth provided by the Spaceport Authority for FY22 and FY23 is based on the assumption that the Informed Consent Act is retained beyond its "sunset" date of July 1, 2021 and the Spaceport's business development efforts continue as they are. The revenue projection also assumes retention of current lessors (Virgin Galactic, SpinLaunch Inc.,

AeroVironment Inc., UP Aerospace Inc.) and recruitment of additional operators in FY22 and beyond.

The Spaceport Authority provided the following:

HB68, the *Spaceflight Informed Consent Act*, is important for New Mexico's economic competitiveness. There will be nil or minimal administrative cost for statewide update, distribution, and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions.

There could potentially be negative economic impacts to Spaceport America if space flight entities, tenants, and users of the facilities were to locate or originate flights in other states that provide the indemnifications currently contained in the law.

It is difficult to estimate the fiscal impact of not expanding protections under the Space Flight Informed Consent Act. Nonetheless, NMSA is of the opinion that it may be reasonable to expect that the spaceport's primary tenant, Virgin Galactic, might reconsider and re-evaluate its presence at the spaceport and in New Mexico, should the protections not be provided.

Beyond affecting Virgin Galactic, NMSA believes the same concerns will possibly negatively impact its ability to attract other space flight entities, tenants, and users. In the recent past a number of current and potential customers of Spaceport America have indicated an unwillingness to move to New Mexico and operate from Spaceport America absent the protection afforded by this legislation.

Without its anchor tenant, the \$200 million-plus, publicly-financed Spaceport America, may not be economically viable. Beyond such possibility, there are no fiscal implications or cost to the State of New Mexico.

## **SIGNIFICANT ISSUES**

The Spaceport Authority provided the following:

As with the original bill, which only pertains to spaceflight participants, the proposal does not remove liability for companies, except in the case of potentially unforeseeable events inherent in spaceflight activities. Spaceflight companies would still be liable for any negligent practice or activity that would have, and should have, been foreseeable as necessary for safe operations. This does not limit liability regarding injury or property damage to non-participating third parties.

The legislation will provide liability certainty for human spaceflight companies, while updating key definitions to reflect the wide variety of companies already in and interested in coming to New Mexico. By providing businesses this certainty, New Mexico becomes more attractive to new spaceflight companies looking for a home, and existing companies looking for new operating locations.

The new bill does NOT excuse companies for negligence or willful, wanton, or reckless disregard for the safety of spaceflight participants. It should be noted that many states<sup>1</sup> now have “Informed Consent” statutes. These statutes are designed to allow early-stage technology activities (such as sub-orbital spaceflight) to mature. While spaceflight will someday be considered as safe as commercial air travel, there still exist risks inherent in new technology endeavors that, absent this protection, would prevent companies to operate.

The legislation allows better characterization of risk exposure for spaceflight companies and allows them to operate in New Mexico. Without informed consent passage, companies are highly likely to move to more favorable location(s) in other states to reduce existential risks.

If the existing legislation were allowed to expire due to its “sunset” provision, its absence would create uncertainty with respect to insurance costs and availability of supply chain for aerospace operators, and would place New Mexico at a competitive disadvantage to the other states having this type of legislation in their books. Conversely, the bill sets New Mexico on a more competitive footing with the other states that explicitly offer indemnification to suppliers and manufacturers, and builds a level of confidence that the entire supply chain of the new commercial spaceflight industry can continue to grow and develop in New Mexico.

If NMSA is unable to attract additional tenants, customers and manufacturers, the economic potential of Spaceport America to the state, in terms of jobs creation, tourism enhancement, and industry development, will be substantially reduced. Further, with the state being on the cusp of becoming just the third state to send humans to space, now is the time to solidify New Mexico’s place as a nationwide leader in space exploration.

## **PERFORMANCE IMPLICATIONS**

The Spaceport Authority provided the following:

When passed, the legislation will enhance New Mexico’s leadership in commercial spaceflight and will continue to promote the creation of economic and educational opportunities for New Mexicans. The state’s ability to attract and retain commercial spaceflight operating customers will be positively impacted, and the number of related jobs that will be created will grow.

## **OTHER SUBSTANTIVE ISSUES**

The Spaceport Authority provided the following:

The removal of the sunset provision of the bill does not limit any liability regarding injury or property damage to non-participating third parties.

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<sup>1</sup> California, Colorado, Florida, Georgia, Oklahoma, Texas, Virginia.

Any injury or property damage to non-participants is not excused by this bill. In fact, FAA-licensed operators will be required to carry up to \$500 million insurance coverage for third party damage or injury as well as the FAA providing a \$1.5 billion dollar policy to ensure proper coverage for any incident.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The Spaceport Authority provided the following:

The absence of an Informed Consent bill might jeopardize ongoing NMSA operations at Spaceport America and put the state's investment in substantial risk.

Also, New Mexico's leadership in commercial space will be impacted causing limited jobs creation, tourism, and education; Spaceport America will be at a competitive disadvantage to California, Colorado, Florida, Georgia, Oklahoma, Texas, and Virginia; and NMSA will have difficulty attracting and retaining customers.

JM/al