

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; PROVIDING THAT A PORTION OF STATE AND LOCAL GROSS RECEIPTS AND COMPENSATING TAX REVENUE IMPOSED ON CERTAIN ECONOMIC DEVELOPMENT PROJECTS MAY BE PROVIDED AS PUBLIC SUPPORT FOR THE PROJECTS PURSUANT TO THE LOCAL ECONOMIC DEVELOPMENT ACT; PROVIDING TRANSFERS AND DISTRIBUTIONS OF THE PORTION OF STATE AND LOCAL GROSS RECEIPTS AND COMPENSATING TAX REVENUE; DECLARING AN EMERGENCY.

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

SECTION 1. Section 5-10-14 NMSA 1978 (being Laws 2020, Chapter 74, Section 1, as amended) is amended to read:

"5-10-14. LOCAL ECONOMIC DEVELOPMENT ACT FUND.--

A. The "Local Economic Development Act fund" is created in the state treasury. Income from the fund shall be credited to the fund. Money in the fund shall not revert or be transferred to any other fund at the end of a fiscal year. The department shall administer the fund, and money in the fund is appropriated to the department to pay the cost of administering the fund and for economic development projects pursuant to the Local Economic Development Act. Money in the fund shall be expended on warrants of the department of finance and administration pursuant to vouchers signed by the secretary of economic development.

1           B. The following may be used to provide public  
2 support for certain economic development projects of  
3 qualifying entities pursuant to Section 2 of this 2021 act  
4 and shall be separately accounted for in the fund:

5                   (1) fifty percent of the tax revenue  
6 attributable to the state gross receipts tax and the state  
7 compensating tax, as determined pursuant to Subsection A of  
8 Section 2 of this 2021 act, and distributed pursuant to  
9 Subsection A of Section 5 of this 2021 act; and

10                   (2) that portion of the tax revenue  
11 attributable to the local option gross receipts tax and  
12 county compensating tax imposed by a county and local option  
13 gross receipts tax and municipal compensating tax imposed by  
14 a municipality dedicated pursuant to Subsection B of Section  
15 2 of this 2021 act and distributed pursuant to Subsection B  
16 of Section 5 of this 2021 act."

17           SECTION 2. A new section of the Local Economic  
18 Development Act is enacted to read:

19                   "GROSS RECEIPTS TAX AND COMPENSATING TAX REVENUE AS  
20 PUBLIC SUPPORT FOR CERTAIN PROJECTS.--

21           A. A qualifying entity that meets the following  
22 requirements may receive public support for the qualifying  
23 entity's economic development project from funds in the Local  
24 Economic Development Act fund pursuant to Subsection B of  
25 Section 5-10-14 NMSA 1978 in an amount equal to fifty percent

1 of the net receipts attributable to the state gross receipts  
2 tax and state compensating tax imposed on the expenses  
3 related to the construction of the qualifying entity's  
4 project, as determined by the department, related to the  
5 economic development project and the amount dedicated  
6 pursuant to Subsection B of this section; provided that the  
7 public support shall be provided for a period of no more than  
8 ten years, beginning on the date the applicable project  
9 participation agreement with the qualifying entity is  
10 executed:

11 (1) the qualifying entity signs a project  
12 participation agreement with the governing body of each local  
13 government that has jurisdiction of the area in which the  
14 qualifying entity's economic development project is located  
15 and the local government has passed an ordinance dedicating  
16 local government gross receipts tax revenue pursuant to  
17 Subsection B of this section;

18 (2) the qualifying entity signs a project  
19 participation agreement with the department; provided that  
20 the department shall not sign the agreement unless the  
21 applicable local governments have signed a project  
22 participation agreement pursuant to Paragraph (1) of this  
23 subsection; and provided further that the project  
24 participation agreement shall provide that if, at the end of  
25 the ten-year period, the economic development project fails

1 to meet the three-hundred-fifty-million-dollar (\$350,000,000)  
2 requirement pursuant to Paragraph (3) of this subsection, the  
3 department shall seek to recover some or all of the public  
4 support provided to the qualifying entity and shall transfer  
5 any amount recovered to the general fund and to the  
6 contributing local government based on each entity's pro rata  
7 share of public support to the economic development project;

8 (3) the economic development project has a  
9 reasonable expectation to incur, within ten years of the date  
10 the project participation agreement with the local government  
11 and the department is executed, at least three hundred fifty  
12 million dollars (\$350,000,000) in expenses related to the  
13 construction and infrastructure of the project in the state;

14 (4) the qualifying entity and the economic  
15 development project meet all other requirements to receive  
16 public support pursuant to the Local Economic Development  
17 Act; and

18 (5) prior to the end of each month, the  
19 qualifying entity submits the appropriate documents,  
20 including tax documents of the qualifying entity and its  
21 contractors submitted to the taxation and revenue department,  
22 to the department and to the local governments with which the  
23 qualifying entity signed a project participation agreement,  
24 on forms and in a manner determined by the department, of the  
25 taxable expenses related to the construction of the economic

1 development project for the previous month.

2 B. A local government may dedicate, by ordinance,  
3 fifty percent of the tax revenue attributable to the gross  
4 receipts and compensating taxes imposed by the local  
5 government on the qualifying entity's receipts for expenses  
6 related to the construction of the economic development  
7 project to the Local Economic Development Act fund for the  
8 purposes provided in Subsection B of Section 5-10-14 NMSA  
9 1978.

10 C. Within thirty days after execution of a project  
11 participation agreement with a qualifying entity, the  
12 department shall issue a report to the department of finance  
13 and administration and the legislative finance committee that  
14 shall identify the qualifying entity intended to receive  
15 public support pursuant to this section, the estimated  
16 expenses related to the construction of the qualifying  
17 entity's project as determined by the department, the  
18 location of the project, the amount of public support pledged  
19 by the department and each local government for the project  
20 pursuant to this section and the amount of any other public  
21 support pledged for the project pursuant to the Local  
22 Economic Development Act.

23 D. As soon as practicable, the taxation and  
24 revenue department shall implement a rate type to identify  
25 gross receipts and compensating taxes reported and paid to

1 the taxation and revenue department for expenses related to  
2 the construction of an economic development project. Once  
3 implemented, all such gross receipts and compensating taxes  
4 shall be reported and paid with that rate type.

5 E. If the taxation and revenue department has not  
6 implemented the rate type provided in Subsection D of this  
7 section, and if the requirements of Subsection A of this  
8 section have been met, the economic development department  
9 and the local governments that signed a project participation  
10 agreement with the qualifying entity shall:

11 (1) review the documents submitted by a  
12 qualifying entity pursuant to Paragraph (5) of Subsection A  
13 of this section;

14 (2) estimate the amount equal to fifty  
15 percent of the tax revenue attributable to the gross receipts  
16 tax and compensating tax imposed on the taxable expenses  
17 related to the construction of the economic development  
18 project appropriate to:

19 (a) the local government's gross  
20 receipts and compensating taxes if a local government; and

21 (b) the state gross receipts and  
22 compensating taxes if the department;

23 (3) if a local government, on the first  
24 business day of each month, submit the estimated amount and  
25 the supporting documents to the department; and

1 (4) if the department, on or before the  
2 twenty-fifth day of December, March, June and September,  
3 provide the estimates and any supporting documentation to the  
4 taxation and revenue department, on forms and in a manner  
5 determined by that department.

6 F. The taxation and revenue department shall  
7 review the amounts estimated pursuant to Subsection E of this  
8 section for accuracy and computation, make any necessary  
9 corrections or adjustments and make a final determination of  
10 the amounts to be distributed from the relevant tax revenue  
11 pursuant to Section 5 of this 2021 act."

12 SECTION 3. Section 7-1-6.12 NMSA 1978 (being Laws 1983,  
13 Chapter 211, Section 17, as amended) is amended to read:

14 "7-1-6.12. TRANSFER--REVENUES FROM MUNICIPAL LOCAL  
15 OPTION GROSS RECEIPTS AND COMPENSATING TAXES.--

16 A. A transfer pursuant to Section 7-1-6.1 NMSA  
17 1978 shall be made to each municipality for which the  
18 department is collecting a local option gross receipts tax  
19 and municipal compensating tax imposed by that municipality  
20 in an amount, subject to any increase or decrease made  
21 pursuant to Section 7-1-6.15 NMSA 1978, equal to the net  
22 receipts attributable to the local option gross receipts tax  
23 and municipal compensating tax imposed by that municipality,  
24 less any deduction for administrative cost determined and  
25 made by the department pursuant to the provisions of the act

1 authorizing imposition by that municipality of the local  
2 option gross receipts tax and municipal compensating tax and  
3 any additional administrative fee withheld pursuant to  
4 Section 7-1-6.41 NMSA 1978.

5 B. A transfer pursuant to this section may be  
6 adjusted for a distribution made to a tax increment  
7 development district with respect to a portion of a gross  
8 receipts tax increment dedicated by a municipality pursuant  
9 to the Tax Increment for Development Act.

10 C. A transfer pursuant to this section shall be  
11 adjusted for a distribution made to the Local Economic  
12 Development Act fund pursuant to Section 5 of this 2021 act  
13 and with respect to the amount dedicated by a municipality  
14 pursuant to Subsection B of Section 2 of this 2021 act."

15 SECTION 4. Section 7-1-6.13 NMSA 1978 (being Laws 1983,  
16 Chapter 211, Section 18, as amended) is amended to read:

17 "7-1-6.13. TRANSFER--REVENUES FROM COUNTY LOCAL OPTION  
18 GROSS RECEIPTS AND COMPENSATING TAXES.--

19 A. A transfer pursuant to Section 7-1-6.1 NMSA  
20 1978 shall be made to each county for which the department is  
21 collecting a local option gross receipts tax and county  
22 compensating tax imposed by that county in an amount, subject  
23 to any increase or decrease made pursuant to Section 7-1-6.15  
24 NMSA 1978, equal to the net receipts attributable to the  
25 local option gross receipts tax and county compensating tax

1 imposed by that county, less any deduction for administrative  
2 cost determined and made by the department pursuant to the  
3 provisions of the act authorizing imposition by that county  
4 of the local option gross receipts tax and county  
5 compensating tax and any additional administrative fee  
6 withheld pursuant to Section 7-1-6.41 NMSA 1978.

7 B. A transfer pursuant to this section may be  
8 adjusted for a distribution made to a tax increment  
9 development district with respect to a portion of a gross  
10 receipts tax increment dedicated by a county pursuant to the  
11 Tax Increment for Development Act.

12 C. A transfer pursuant to this section shall be  
13 adjusted for a distribution made to the Local Economic  
14 Development Act fund pursuant to Section 5 of this 2021 act  
15 and with respect to the amount dedicated by a county pursuant  
16 to Subsection B of Section 2 of this 2021 act."

17 SECTION 5. A new section of the Tax Administration Act  
18 is enacted to read:

19 "DISTRIBUTION--LOCAL ECONOMIC DEVELOPMENT ACT FUND.--

20 A. A distribution pursuant to Section 7-1-6.1 NMSA  
21 1978 shall be made to the Local Economic Development Act fund  
22 equal to the following amounts of the following taxes imposed  
23 and paid on the expenses related to the construction of the  
24 qualifying entity's economic development project, as  
25 determined pursuant to Section 2 of this 2021 act:

1                   (1) fifty percent of the net receipts  
2 attributable to state gross receipts tax and the state  
3 compensating tax; and

4                   (2) fifty percent of the net receipts  
5 attributable to the local option gross receipts tax and  
6 county compensating tax imposed by a county and local option  
7 gross receipts tax and municipal compensating tax imposed by  
8 a municipality.

9                   B. As used in this section:

10                   (1) "economic development project" means  
11 "economic development project" as used in the Local Economic  
12 Development Act; and

13                   (2) "qualifying entity" means "qualifying  
14 entity" as used in the Local Economic Development Act."

15                   SECTION 6. EMERGENCY.--It is necessary for the public  
16 peace, health and safety that this act take effect  
17 immediately.

18  
19  
20  
21  
22  
23  
24  
25