AN ACT
RELATING TO ECONOMIC DEVELOPMENT; AMENDING THE LOCAL ECONOMIC DEVELOPMENT ACT; INCLUDING CONSTRUCTION OR UPGRADES TO FACILITATE THE USE OF WATER-EFFICIENT OR CLEAN ENERGY TECHNOLOGIES OR TO MEET OR EXCEED GREEN BUILDING CERTIFICATION STANDARDS IN THE DEFINITION OF "ECONOMIC DEVELOPMENT PROJECT"; INCLUDING AN ENTITY THAT DEVELOPS WATER OR BROADBAND INFRASTRUCTURE IN THE DEFINITION OF "QUALIFYING ENTITY".

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

SECTION 1. Section 5-10-3 NMSA 1978 (being Laws 1993, Chapter 297, Section 3, as amended) is amended to read:

"5-10-3. DEFINITIONS.--As used in the Local Economic Development Act:

A. "arts and cultural district" means a developed district of public and private uses that is created pursuant to .218389.2
the Arts and Cultural District Act;

B. "broadband telecommunications network facilities" means the electronics, equipment, transmission facilities, fiber-optic cables and any other item directly related to a system capable of transmission of internet protocol or other formatted data at current federal communications commission minimum speed standard, all of which will be owned and used by a provider of internet access services;

C. "cultural facility" means a facility that is owned by the state, a county, a municipality or a qualifying entity that serves the public through preserving, educating and promoting the arts and culture of a particular locale, including theaters, museums, libraries, galleries, cultural compounds, educational organizations, performing arts venues and organizations, fine arts organizations, studios and media laboratories and live-work housing facilities;

D. "department" means the economic development department;

E. "economic development project" or "project" means the provision of public support or assistance by the state to a local or regional government or the provision of direct or indirect assistance to a qualifying entity by a local or regional government. "Economic development project":

(1) includes:

.218389.2
(a) the purchase, lease, grant, construction, reconstruction, improvement or other acquisition or conveyance of land, buildings or other infrastructure;
(b) rights-of-way infrastructure, including trenching and conduit, for the placement of new broadband telecommunications network facilities;
(c) public works improvements essential to the location or expansion of a qualifying entity;
(d) payments for professional services contracts necessary for local or regional governments to implement a plan or project;
(e) the provision of direct loans or grants for land, buildings or infrastructure;
(f) technical assistance to cultural facilities;
(g) loan guarantees securing the cost of land, buildings or infrastructure in an amount not to exceed the revenue that may be derived from an increment of the: 1) municipal gross receipts tax imposed at a rate not to exceed one-fourth percent and dedicated by the ordinance imposing the increment to a project; or 2) county gross receipts tax imposed at a rate not to exceed one-eighth percent and dedicated by the ordinance imposing the increment to a project;
(h) grants for public works infrastructure improvements essential to the location or
expansion of a qualifying entity and grants or subsidies to
cultural facilities;

   (i) the purchase of land for a publicly
   held industrial park or a publicly owned cultural facility;
   [and]

   (j) the construction of a building for
use by a qualifying entity; [but] and

   (k) construction, retrofits,
improvements or upgrades to buildings or infrastructure to
facilitate the use of water-efficient or clean energy
technologies, including electricity generation or storage, or
to meet or exceed nationally or internationally recognized
green building certification standards; but

   (2) does not include the purchase, lease,
grant or other acquisition or conveyance of water rights;

F. "governing body" means the city council, city
commission or board of trustees of a municipality or the board
of county commissioners of a county;

G. "local government" means a municipality or
county;

H. "municipality" means an incorporated city, town
or village;

I. "new full-time economic base job" means a job:
   (1) that is primarily performed in New Mexico;
   (2) that is held by an employee who is hired
to work an average of at least thirty-two hours per week for at least forty-eight weeks per year;

(3) that is:

(a) involved, directly or in a supervisory capacity, with the production of: 1) a service; provided that the majority of the revenue generated from the service is from sources outside the state; or 2) tangible or intangible personal property for sale; or

(b) held by an employee who is employed at a regional, national or international headquarters operation or at an operation that primarily provides services for other operations of the qualifying entity that are located outside the state; and

(4) that is not directly involved with natural resources extraction or processing, on-site services where the customer is present for the delivery of the service, retail, construction or agriculture except for value-added processing performed on agricultural products that would then be sold for wholesale or retail consumption;

J. "person" means an individual, corporation, association, partnership or other legal entity;

K. "qualifying entity" means a corporation, limited liability company, partnership, joint venture, syndicate, association or other person that is one or a combination of two or more of the following:
(1) an industry for the manufacturing,
processing or assembling of agricultural or manufactured
products;

(2) a commercial enterprise for storing,
warehousing, distributing or selling products of agriculture,
mining or industry, but, other than as provided in Paragraph
(5), (6) or (9) of this subsection, not including any
enterprise for sale of goods or commodities at retail or for
distribution to the public of electricity, gas, water or
telephone or other services commonly classified as public
utilities;

(3) a business, including a restaurant or
lodging establishment, in which all or part of the activities
of the business involves the supplying of services to the
general public or to governmental agencies or to a specific
industry or customer, but, other than as provided in Paragraph
(5) or (9) of this subsection, not including businesses
primarily engaged in the sale of goods or commodities at
retail;

(4) an Indian nation, tribe or pueblo or a
federally chartered tribal corporation;

(5) a telecommunications sales enterprise that
makes the majority of its sales to persons outside New Mexico;

(6) a facility for the direct sales by growers
of agricultural products, commonly known as farmers' markets;
(7) a business that is the developer of a metropolitan redevelopment project;

(8) a cultural facility; [and]

(9) a retail business; or

(10) an entity that is the developer of water or broadband infrastructure that is needed to connect areas of the state that are not served by, or have inadequate access to, water or broadband resources;

L. "regional government" means any combination of municipalities and counties that enter into a joint powers agreement to provide for economic development projects pursuant to a plan adopted by all parties to the joint powers agreement; and

M. "retail business" means a business that is primarily engaged in the sale of goods or commodities at retail and that is located in a municipality with a population, according to the most recent federal decennial census, of:

(1) fifteen thousand or less; or

(2) more than fifteen thousand but less than thirty-five thousand if:

(a) the economic development project is not funded or financed with state government revenues; and

(b) the business created through the project will not directly compete with an existing business that is: 1) in the municipality; and 2) engaged in the sale of

.218398.2

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the same or similar goods or commodities at retail."

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