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SENATE BILL

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; AMENDING A SECTION OF THE
LOCAL ECONOMIC DEVELOPMENT ACT TO PROVIDE FOR BROADBAND
INFRASTRUCTURE DEVELOPMENT.

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
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

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1 related to a system capable of transmission of internet
2 protocol or other formatted data at transmission speeds of a
3 minimum of ten megabits per second of download speed and one
4 megabit per second of upload speed, all of which will be owned
5 and used by a provider of internet access services;

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

14 ~~[G-]~~ D. "department" means the economic development
15 department;

16 ~~[D-]~~ E. "economic development project" or "project"
17 means the provision of direct or indirect assistance to a
18 qualifying entity by a local or regional government and
19 includes the purchase, lease, grant, construction,
20 reconstruction, improvement or other acquisition or conveyance
21 of land, buildings or other infrastructure; rights-of-way
22 infrastructure, including trenching and conduit, for the
23 placement of new broadband telecommunications network
24 facilities; public works improvements essential to the location
25 or expansion of a qualifying entity; payments for professional

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1 services contracts necessary for local or regional governments
2 to implement a plan or project; the provision of direct loans
3 or grants for land, buildings or infrastructure; technical
4 assistance to cultural facilities; loan guarantees securing the
5 cost of land, buildings or infrastructure in an amount not to
6 exceed the revenue that may be derived from the municipal
7 infrastructure gross receipts tax or the county infrastructure
8 gross receipts tax; grants for public works infrastructure
9 improvements essential to the location or expansion of a
10 qualifying entity; grants or subsidies to cultural facilities;
11 purchase of land for a publicly held industrial park or a
12 publicly owned cultural facility; and the construction of a
13 building for use by a qualifying entity;

14 ~~[E.]~~ F. "governing body" means the city council,
15 city commission or board of trustees of a municipality or the
16 board of county commissioners of a county;

17 ~~[F.]~~ G. "local government" means a municipality or
18 county;

19 ~~[G.]~~ H. "municipality" means an incorporated city,
20 town or village;

21 ~~[H.]~~ I. "person" means an individual, corporation,
22 association, partnership or other legal entity;

23 ~~[I.]~~ J. "qualifying entity" means a corporation,
24 limited liability company, partnership, joint venture,
25 syndicate, association or other person that is one or a

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1 combination of two or more of the following:

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

5 (2) a commercial enterprise for storing,
6 warehousing, distributing or selling products of agriculture,
7 mining or industry, but, other than as provided in Paragraph
8 (5), (6) or (9) of this subsection, not including any
9 enterprise for sale of goods or commodities at retail or for
10 distribution to the public of electricity, gas, water or
11 telephone or other services commonly classified as public
12 utilities;

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

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

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

25 (6) a facility for the direct sales by growers

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1 of agricultural products, commonly known as farmers' markets;

2 (7) a business that is the developer of a
3 metropolitan redevelopment project;

4 (8) a cultural facility; and

5 (9) a retail business;

6 [~~J~~] K. "regional government" means any combination
7 of municipalities and counties that enter into a joint powers
8 agreement to provide for economic development projects pursuant
9 to a plan adopted by all parties to the joint powers agreement;
10 and

11 [~~K~~] L. "retail business" means a business that is
12 primarily engaged in the sale of goods or commodities at retail
13 and that is located in a municipality with a population,
14 according to the most recent federal decennial census, of:

15 (1) ten thousand or less; or

16 (2) more than ten thousand but less than
17 thirty-five thousand if:

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

20 (b) the business created through the
21 project will not directly compete with an existing business
22 that is: 1) in the municipality; and 2) engaged in the sale of
23 the same or similar goods or commodities at retail."