# F I S C A L   I M P A C T   R E P O R T

**ORIGINAL DATE** 02/13/11
**SPONSOR** Begaye **LAST UPDATED** **HB** 326

**SHORT TITLE** Local Economic Development Revisions **SB**

**ANALYST** Lucero

## ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY11 | FY12 | FY13 | 3 Year Total Cost | Recurring or Non-Rec | Fund Affected |
|---|---|---|---|---|---|---|
| **Total** | | | | | | |

(Parenthesis ( ) Indicate Expenditure Decreases)

**SOURCES OF INFORMATION**
LFC Files

Responses Received From
New Mexico Finance Authority (NMFA)
Attorney General's Office (AGO)
Economic Development Department (EDD)

## SUMMARY

Synopsis of Bill

House Bill 326 amends Section 5-10-3 NMSA 1978, the Local Economic Development Act (LEDA), to expand the list of entities that qualify as economic development projects under the Act.

The bill amends LEDA to include businesses that sell food or commodities. The bill defines "food" as a food product for home consumption that meets the definition of the federal food Supplemental Nutrition Assistance Program (SNAP) in 7 USCA 2010(k)(1), but does require the business to participate in the federal supplemental nutrition assistance program.

The bill defines "rural" to mean an area or location identified by the Economic Development Department (EDD) as falling outside of an urban area with a population of less than five thousand people.

## FISCAL IMPLICATIONS

The bill has no fiscal impact for state operations. It does, however, expand the scope of businesses eligible for LEDA support and economic development efforts.

## SIGNIFICANT ISSUES

Through LEDA, local governments are allowed to provide public support for economic development projects through credit pledges and direct contributions. Section 5-10-3 (I) of LEDA explains how a retail entity does not meet the definition of a "Qualifying Entity". Amending the LEDA to include retail as a "qualifying entity," would allow rural communities to assist retail businesses with much needed rural infrastructure and provide such basic needs as a grocery store.

Several of the most recent LEDA approved projects have been high profile projects located in Bernalillo County including Schott Solar and Fidelity.

Expanding the type of qualifying entities in rural areas may be particularly helpful to smaller communities that have adopted a LEDA ordinance to enable them to offer more substantial incentives to businesses and thereby provide a greater chance of attracting jobs and economic growth.

## TECHNICAL ISSUES

The Attorney General's Office notes that:

- There is no definition for commodities.
- The definition of rural is different than other definitions in state law. Some definitions use different population numbers (Section 6-10-24.2 uses 3,500 people and Section 6-30-3 uses 25,000 people). Some definitions are tied to county size (Section 7-9F-3).
- The definition of rural is grammatically unclear. It reads "an area or location identified by the department as falling outside an urban area with a population of less than 5,000 people." It is unclear if the population size identifies the urban area or the rural area?

## OTHER SUBSTANTIVE ISSUES

In 1994 New Mexico voters approved an amendment to Article IX, Section 14 of the New Mexico constitution, the "anti-donation clause", to allow local or regional governments to create new job opportunities by providing land, buildings or infrastructure for facilities to support new or expanding businesses. The amendment was implemented into statute by Section 5-10-1 through 5-10-13 NMSA 1978, the Local Economic Development Act (LEDA). Under LEDA a local entity could provide land, buildings, or infrastructure for facilities to a private entity without violating the "anti-donation clause."

Prior to providing public support, local government entities must adopt by ordinance an economic development plan outlining its economic development goals and strategies. The plan may be specific to a single economic development goal or strategy or may include several goals or strategies. Once a local community has passed a LEDA ordinance, then a qualifying business can apply for project consideration. Multiple governmental units can combine under a joint powers agreement to develop a regional economic development plan; however, projects must be approved by all of the government units.

The local government reviews an entity's application based on provisions of the economic development plan. The application is reviewed for the entity's financial and management stability, demonstrated commitment to the community, a cost-benefit analysis of the project and any other necessary information. Once approved, the qualifying entity and the local government enter into a project participation agreement which sets out the contributions to be made by each party, the security provided to the local government by the qualifying entity, a schedule for project development and completion, and provisions for performance review and actions to be taken for unsatisfactory performance

The LEDA allows municipalities and counties to expend funds on economic development projects. The law also stipulates how much can be spent, what constitutes an economic development project and what is a qualifying entity. The local government unit must also have adopted by ordinance an economic development plan or a master plan with an economic development component. The unit must follow certain procedures when pursuing economic development projects. Municipalities and counties are also allowed to enter into joint power agreements.

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

Businesses located in rural areas engaged in the sale of food or commodities at retail will not be considered “qualifying entities” under the LEDA.

DL/svb