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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  
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,

1 including theaters, museums, libraries, galleries, cultural  
2 compounds, educational organizations, performing arts venues  
3 and organizations, fine arts organizations, studios and media  
4 laboratories and live-work housing facilities;

5 D. "department" means the economic development  
6 department;

7 E. "economic development project" or "project"  
8 means the provision of direct or indirect assistance to a  
9 qualifying entity by a local or regional government and  
10 includes the purchase, lease, grant, construction,  
11 reconstruction, improvement or other acquisition or  
12 conveyance of land, buildings or other infrastructure;  
13 rights-of-way infrastructure, including trenching and  
14 conduit, for the placement of new broadband  
15 telecommunications network facilities; public works  
16 improvements essential to the location or expansion of a  
17 qualifying entity; payments for professional services  
18 contracts necessary for local or regional governments to  
19 implement a plan or project; the provision of direct loans or  
20 grants for land, buildings or infrastructure; technical  
21 assistance to cultural facilities; loan guarantees securing  
22 the cost of land, buildings or infrastructure in an amount  
23 not to exceed the revenue that may be derived from the  
24 municipal infrastructure gross receipts tax or the county  
25 infrastructure gross receipts tax; grants for public works

1 infrastructure improvements essential to the location or  
2 expansion of a qualifying entity; grants or subsidies to  
3 cultural facilities; purchase of land for a publicly held  
4 industrial park or a publicly owned cultural facility; and  
5 the construction of a building for use by a qualifying  
6 entity;

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

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

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

14 I. "person" means an individual, corporation,  
15 association, partnership or other legal entity;

16 J. "qualifying entity" means a corporation,  
17 limited liability company, partnership, joint venture,  
18 syndicate, association or other person that is one or a  
19 combination of two or more of the following:

20 (1) an industry for the manufacturing,  
21 processing or assembling of agricultural or manufactured  
22 products;

23 (2) a commercial enterprise for storing,  
24 warehousing, distributing or selling products of agriculture,  
25 mining or industry, but, other than as provided in Paragraph

1 (5), (6) or (9) of this subsection, not including any  
2 enterprise for sale of goods or commodities at retail or for  
3 distribution to the public of electricity, gas, water or  
4 telephone or other services commonly classified as public  
5 utilities;

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

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

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

19 (6) a facility for the direct sales by  
20 growers of agricultural products, commonly known as farmers'  
21 markets;

22 (7) a business that is the developer of a  
23 metropolitan redevelopment project;

24 (8) a cultural facility; and

25 (9) a retail business;

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

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

11                   (1) ten thousand or less; or

12                   (2) more than ten thousand but less than  
13 thirty-five thousand if:

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

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