

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

HOUSE BILL 11

**55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

INTRODUCED BY

Christine Chandler and Brian Egolf

AN ACT

RELATING TO BUSINESS; AMENDING DEFINITIONS IN THE LOCAL ECONOMIC DEVELOPMENT ACT AND CONFORMING RELATED SECTIONS OF THE ACT; 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; CHANGING THE NAME OF THE "LOCAL AND REGIONAL ECONOMIC DEVELOPMENT SUPPORT FUND" TO THE "LOCAL ECONOMIC DEVELOPMENT ACT FUND" AND THE PERMITTED USES OF THE FUND; CREATING A PROGRAM WITH THE NEW MEXICO FINANCE AUTHORITY TO PROVIDE GRANTS TO CERTAIN BUSINESSES TO REIMBURSE RENT AND LEASE PAYMENTS FROM FUNDING TRANSFERRED TO THE ECONOMIC DEVELOPMENT DEPARTMENT FROM THE SEVERANCE TAX PERMANENT FUND; DECLARING AN EMERGENCY.

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

**SECTION 1.** Section 5-10-3 NMSA 1978 (being Laws 1993,

.218469.6GLG

underscoring material = new  
~~[bracketed material] = delete~~

underscoring material = new  
~~[bracketed material] = delete~~

1 Chapter 297, Section 3, as amended) is amended to read:

2 "5-10-3. DEFINITIONS.--As used in the Local Economic  
3 Development Act:

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

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

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

23 D. "department" means the economic development  
24 department;

25 E. "economic development project" or "project"

.218469.6GLG

underscored material = new  
[bracketed material] = delete

1 means the ~~[provision of public support or assistance by the~~  
2 ~~state to a local or regional government or the provision of~~  
3 ~~direct or indirect assistance to a qualifying entity by a local~~  
4 ~~or regional government. "Economic development project":~~

5 (1) ~~includes:~~

6 (a) ~~the purchase, lease, grant,~~  
7 ~~construction, reconstruction, improvement or other acquisition~~  
8 ~~or conveyance of land, buildings or other infrastructure;~~

9 (b) ~~rights-of-way infrastructure,~~  
10 ~~including trenching and conduit, for the placement of new~~  
11 ~~broadband telecommunications network facilities;~~

12 (c) ~~public works improvements essential~~  
13 ~~to the location or expansion of a qualifying entity;~~

14 (d) ~~payments for professional services~~  
15 ~~contracts necessary for local or regional governments to~~  
16 ~~implement a plan or project;~~

17 (e) ~~the provision of direct loans or~~  
18 ~~grants for land, buildings or infrastructure;~~

19 (f) ~~technical assistance to cultural~~  
20 ~~facilities;~~

21 (g) ~~loan guarantees securing the cost of~~  
22 ~~land, buildings or infrastructure in an amount not to exceed~~  
23 ~~the revenue that may be derived from an increment of the: 1)~~  
24 ~~municipal gross receipts tax imposed at a rate not to exceed~~  
25 ~~one-fourth percent and dedicated by the ordinance imposing the~~

.218469.6GLG

underscoring material = new  
[bracketed material] = delete

1 ~~increment to a project; or 2) county gross receipts tax imposed~~  
2 ~~at a rate not to exceed one eighth percent and dedicated by the~~  
3 ~~ordinance imposing the increment to a project;~~

4 ~~(h) grants for public works~~  
5 ~~infrastructure improvements essential to the location or~~  
6 ~~expansion of a qualifying entity and grants or subsidies to~~  
7 ~~cultural facilities;~~

8 ~~(i) the purchase of land for a publicly~~  
9 ~~held industrial park or a publicly owned cultural facility; and~~

10 ~~(j) the construction of a building for~~  
11 ~~use by a qualifying entity; but~~

12 ~~(2) does not include the purchase, lease,~~  
13 ~~grant or other acquisition or conveyance of water rights]~~  
14 project of a qualifying entity for which public support may be  
15 provided pursuant to the Local Economic Development Act;

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

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

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

23 I. "new full-time economic base job" means a job:

24 (1) that is primarily performed in New Mexico;

25 (2) that is held by an employee who is hired

underscored material = new  
[bracketed material] = delete

1 to work an average of at least thirty-two hours per week for at  
2 least forty-eight weeks per year;

3 (3) that is:

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

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

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

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

22 K. "public support" means the provision of  
23 assistance by the state to a local or regional government or  
24 the provision of direct or indirect assistance to a qualifying  
25 entity by a local or regional government for an economic

.218469.6GLG

underscoring material = new  
[bracketed material] = delete

1 development project. "Public support":

2 (1) includes the provision of:

3 (a) land, buildings or other  
4 infrastructure, by purchase, lease, grant, construction,  
5 reconstruction, improvement or other acquisition or conveyance;

6 (b) rights-of-way infrastructure,  
7 including trenching and conduit, for the placement of new  
8 broadband telecommunications network facilities;

9 (c) public works improvements essential  
10 to the location or expansion of a qualifying entity;

11 (d) payments for professional services  
12 contracts necessary for local or regional governments to  
13 implement a plan or provide public support for a project;

14 (e) direct loans or grants for land,  
15 buildings or infrastructure;

16 (f) technical assistance to cultural  
17 facilities;

18 (g) loan guarantees securing the cost of  
19 land, buildings or infrastructure in an amount not to exceed  
20 the revenue that may be derived from an increment of the: 1)  
21 municipal gross receipts tax imposed at a rate not to exceed  
22 one-fourth percent and dedicated by the ordinance imposing the  
23 increment for projects; or 2) county gross receipts tax imposed  
24 at a rate not to exceed one-eighth percent and dedicated by the  
25 ordinance imposing the increment for projects;

.218469.6GLG

underscoring material = new  
~~[bracketed material]~~ = delete

1                                    (h) grants for public works  
2                                    infrastructure improvements essential to the location or  
3                                    expansion of a qualifying entity and grants or subsidies to  
4                                    cultural facilities;

5                                    (i) land for a publicly held industrial  
6                                    park or a publicly owned cultural facility, by purchase; and

7                                    (j) the construction of a building for  
8                                    use by a qualifying entity; but

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

11                                   ~~[K-]~~ L. "qualifying entity" means a corporation,  
12                                   limited liability company, partnership, joint venture,  
13                                   syndicate, association or other person that is one or a  
14                                   combination of two or more of the following:

15                                   (1) an industry for the manufacturing,  
16                                   processing or assembling of agricultural or manufactured  
17                                   products;

18                                   (2) a commercial enterprise for storing,  
19                                   warehousing, distributing or selling products of agriculture,  
20                                   mining or industry, but, other than as provided in Paragraph  
21                                   (5), (6) or (9) of this subsection, not including any  
22                                   enterprise for sale of goods or commodities at retail or for  
23                                   distribution to the public of electricity, gas, water or  
24                                   telephone or other services commonly classified as public  
25                                   utilities;

underscored material = new  
[bracketed material] = delete

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

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

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

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

15 (7) a business that is the developer of a  
16 metropolitan redevelopment project;

17 (8) a cultural facility; and

18 (9) a retail business;

19 [~~M.~~] M. "regional government" means any combination  
20 of municipalities and counties that enter into a joint powers  
21 agreement to provide public support for economic development  
22 projects pursuant to a plan adopted by all parties to the joint  
23 powers agreement; and

24 [~~M.~~] N. "retail business" means a business that is  
25 primarily engaged in the sale of goods or commodities at retail

.218469.6GLG



underscoring material = new  
~~[bracketed material] = delete~~

1 and that is located in a municipality with a population,  
2 according to the most recent federal decennial census, of:

3 (1) fifteen thousand or less; or

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

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

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

12 SECTION 2. Section 5-10-4 NMSA 1978 (being Laws 1993,  
13 Chapter 297, Section 4, as amended) is amended to read:

14 "5-10-4. ECONOMIC DEVELOPMENT PROJECTS--RESTRICTIONS ON  
15 PUBLIC EXPENDITURES OR PLEDGES OF CREDIT.--

16 A. No local or regional government shall provide  
17 public support for economic development projects as permitted  
18 pursuant to Article 9, Section 14 of the constitution of  
19 New Mexico except as provided in the Local Economic Development  
20 Act or as otherwise permitted by law.

21 B. The total amount of public money expended and  
22 the value of credit pledged in the fiscal year in which that  
23 money is expended by a local government for economic  
24 development projects pursuant to Article 9, Section 14 of the  
25 constitution of New Mexico and the Local Economic Development

.218469.6GLG

underscored material = new  
~~[bracketed material] = delete~~

1 Act shall not exceed ten percent of the annual general fund  
2 expenditures of the local government in that fiscal year. The  
3 limits of this subsection shall not apply to:

4 (1) the value of any land or building  
5 contributed to any project pursuant to a project participation  
6 agreement;

7 (2) revenue generated through the imposition  
8 of an increment of the municipal gross receipts tax at a rate  
9 not to exceed one-fourth percent and dedicated to furthering or  
10 implementing economic development plans and projects as defined  
11 in the Local Economic Development Act or projects as defined in  
12 the Statewide Economic Development Finance Act; provided that  
13 no more than the greater of fifty thousand dollars (\$50,000) or  
14 ten percent of the revenue collected shall be used for  
15 promotion and administration of or professional services  
16 contracts related to the implementation of any such economic  
17 development plan adopted by the governing body;

18 (3) revenue generated through the imposition  
19 of an increment of the county gross receipts tax at a rate not  
20 to exceed one-eighth percent and dedicated to furthering or  
21 implementing economic development plans and projects as defined  
22 in the Local Economic Development Act or projects as defined in  
23 the Statewide Economic Development Finance Act; provided that  
24 no more than the greater of fifty thousand dollars (\$50,000) or  
25 ten percent of the revenue collected shall be used for

.218469.6GLG

underscoring material = new  
~~[bracketed material] = delete~~

1 promotion and administration of or professional services  
2 contracts related to the implementation of any such economic  
3 development plan adopted by the governing body;

4 (4) the proceeds of a revenue bond issue to  
5 which municipal infrastructure gross receipts tax revenue is  
6 pledged;

7 (5) the proceeds of a revenue bond issue to  
8 which the revenue from an increment of the county gross  
9 receipts tax, imposed at a rate not to exceed one-eighth  
10 percent and dedicated by the ordinance imposing the increment  
11 to ~~[a project]~~ provide public support for projects, is pledged;  
12 or

13 (6) funds donated by private entities to be  
14 used for defraying the cost of a project.

15 C. A regional or local government that generates  
16 revenue for economic development projects to which the limits  
17 of Subsection B of this section do not apply shall create an  
18 economic development fund into which such revenues shall be  
19 deposited. The economic development fund and income from the  
20 economic development fund shall be deposited as provided by  
21 law. Money in the economic development fund may be expended  
22 only as provided in the Local Economic Development Act or the  
23 Statewide Economic Development Finance Act.

24 D. In order to expend money from an economic  
25 development fund for arts and cultural district purposes,

.218469.6GLG

underscoring material = new  
~~[bracketed material] = delete~~

1 cultural facilities or retail businesses, the governing body of  
2 a municipality or county that has imposed a municipal or county  
3 local option infrastructure gross receipts tax for furthering  
4 or implementing economic development plans and providing public  
5 support for projects as defined in the Local Economic  
6 Development Act or projects as defined in the Statewide  
7 Economic Development Finance Act by referendum of the majority  
8 of the voters voting on the question approving the ordinance  
9 imposing the municipal or county infrastructure gross receipts  
10 tax before July 1, 2013 shall be required to adopt a  
11 resolution. The resolution shall call for an election to  
12 approve arts and cultural districts as a qualifying purpose and  
13 cultural facilities or retail businesses as a qualifying entity  
14 before any revenue generated by the municipal or county local  
15 option gross receipts tax for furthering or implementing  
16 economic development plans and providing public support for  
17 projects as defined in the Local Economic Development Act or  
18 projects as defined in the Statewide Economic Development  
19 Finance Act can be expended from the economic development fund  
20 for arts and cultural district purposes, cultural facilities or  
21 retail businesses.

22 E. The governing body shall adopt a resolution  
23 calling for an election within seventy-five days of the date  
24 the ordinance is adopted on the question of approving arts and  
25 cultural districts as a qualifying purpose and cultural

.218469.6GLG

underscoring material = new  
~~[bracketed material] = delete~~

1 facilities or retail businesses as a qualifying entity eligible  
2 to utilize revenue generated by the Municipal Local Option  
3 Gross Receipts and Compensating Taxes Act or the County Local  
4 Option Gross Receipts and Compensating Taxes Act for furthering  
5 or implementing economic development plans and providing public  
6 support for projects as defined in the Local Economic  
7 Development Act or projects as defined in the Statewide  
8 Economic Development Finance Act.

9 F. The question shall be submitted to the voters of  
10 the municipality or county as a separate question at a regular  
11 local or county election or at a special election called for  
12 that purpose by the governing body. A special local election  
13 shall be called, conducted and canvassed as provided in the  
14 Local Election Act. A special county election shall be called,  
15 conducted and canvassed in substantially the same manner as  
16 provided by law for general elections.

17 G. If a majority of the voters voting on the  
18 question approves the ordinance adding arts and cultural  
19 districts and cultural facilities or retail businesses as an  
20 approved use of the local option municipal or county economic  
21 development infrastructure gross receipts tax fund, the  
22 ordinance shall become effective on July 1 or January 1,  
23 whichever date occurs first after the expiration of three  
24 months from the date of the adopted ordinance. The ordinance  
25 shall include the effective date."

.218469.6GLG

underscored material = new  
~~[bracketed material] = delete~~

1           SECTION 3. Section 5-10-6 NMSA 1978 (being Laws 1993,  
2 Chapter 297, Section 6, as amended) is amended to read:

3           "5-10-6. ECONOMIC DEVELOPMENT PLAN--CONTENTS--  
4 PUBLICATION.--

5           A. Every local or regional government seeking to  
6 pursue economic development projects shall adopt an economic  
7 development plan or a comprehensive plan that includes an  
8 economic development component, and an economic development  
9 plan or comprehensive plan may include an analysis of the role  
10 of arts and cultural activities in economic development. The  
11 plan may be specific to a single economic development goal or  
12 strategy or may include several goals or strategies, including  
13 any goals or strategies relating to economic development  
14 through arts and cultural activities. Any plan or plan  
15 amendment shall be adopted by ordinance of the governing body  
16 of the local government or each local government of a regional  
17 government proposing the plan or plan amendment.

18           B. The economic development plan or the ordinance  
19 adopting the plan may:

20                   (1) describe the local or regional  
21 government's economic development and community goals,  
22 including any economic development goals with an arts and  
23 cultural component, and assign priority to and strategies for  
24 achieving those goals;

25                   (2) describe the types of qualifying entities

underscored material = new  
[bracketed material] = delete

1 and economic activities that will qualify for [~~economic~~  
2 ~~development projects~~] public support;

3 (3) describe the criteria to be used to  
4 determine eligibility [~~of an economic development project~~] for  
5 public support and a qualifying entity to participate in an  
6 economic development project;

7 (4) describe the manner in which a qualifying  
8 entity may submit an [~~economic development project~~] application  
9 for public support pursuant to Section 5-10-8 NMSA 1978,  
10 including the type of information required from the qualifying  
11 entity sufficient to ensure its solvency and ability to perform  
12 its contractual obligations, its commitment to remain in the  
13 community and its commitment to the stated economic development  
14 goals of the local or regional government;

15 (5) describe the process the local or regional  
16 government will use to verify the information submitted on an  
17 [~~economic development project~~] application for public support  
18 pursuant to Section 5-10-8 NMSA 1978;

19 (6) if an economic development project is  
20 determined to be unsuccessful or if a qualifying entity seeks  
21 to leave the area, describe the methods the local or regional  
22 government will use to terminate [~~its economic assistance~~] the  
23 local or regional government's public support and recoup its  
24 investment;

25 (7) identify revenue sources, including those

underscored material = new  
[bracketed material] = delete

1 of the local or regional government, that will be used to  
2 provide public support for economic development projects;

3 (8) identify other resources the local or  
4 regional government is prepared to offer qualifying entities,  
5 including specific land or buildings it is willing to lease,  
6 sell or grant a qualifying entity; community infrastructure it  
7 is willing to build, extend or expand, including roads, water,  
8 sewers or other utilities; and professional services contracts  
9 by local or regional governments necessary to provide these  
10 resources;

11 (9) detail the minimum benefit the local or  
12 regional government requires from a qualifying entity,  
13 including the number and types of jobs to be created; the  
14 proposed payroll; repayment of loans, if any; purchase by the  
15 qualifying entity of local or regional government-provided  
16 land, buildings or infrastructure; the public to private  
17 investment ratio; and direct local tax base expansion;

18 (10) describe the safeguards of public  
19 resources that will be ensured, including specific ways the  
20 local or regional government can recover any costs, land,  
21 buildings or other thing of value if a qualifying entity ceases  
22 operation, relocates or otherwise defaults or reneges on its  
23 contractual or implied obligations to the local or regional  
24 government; and

25 (11) if a regional government, describe the

.218469.6GLG



underscored material = new  
[bracketed material] = delete

1 joint powers agreement, including whether it can be terminated  
2 and, if so, how the contractual or other obligations, risks and  
3 any property will be assigned or divided among the local  
4 governments who are party to the agreement.

5 C. The economic development plan shall be printed  
6 and made available to the residents within the local or  
7 regional government area."

8 SECTION 4. Section 5-10-7 NMSA 1978 (being Laws 1993,  
9 Chapter 297, Section 7) is amended to read:

10 "5-10-7. REGIONAL PLANS--JOINT POWERS AGREEMENT--REGIONAL  
11 GOVERNMENT.--

12 A. Two or more municipalities, two or more counties  
13 or one or more municipalities and counties may enter into a  
14 joint powers agreement pursuant to the Joint Powers Agreements  
15 Act to develop a regional economic development plan, which may  
16 consist of existing local plans. The parties to the agreement  
17 shall be deemed a regional government for the purposes of the  
18 Local Economic Development Act.

19 B. The joint powers agreement shall require that  
20 the governing body of each local government approve public  
21 support for each economic development project. The agreement  
22 may also provide for appointment of a project manager who shall  
23 be responsible for the management of projects and project  
24 funds. The agreement may provide for a regional body  
25 consisting of representatives from the governing bodies of each

.218469.6GLG

underscored material = new  
[bracketed material] = delete

1 local government that is a party to the agreement and may  
2 determine the powers and duties of that body in implementing  
3 the regional government's plan and providing public support for  
4 projects."

5 SECTION 5. Section 5-10-8 NMSA 1978 (being Laws 1993,  
6 Chapter 297, Section 8) is amended to read:

7 "5-10-8. [~~ECONOMIC DEVELOPMENT PROJECT~~] APPLICATIONS FOR  
8 PUBLIC SUPPORT.--

9 A. After the adoption of an economic development  
10 plan by a local or regional government, a qualifying entity  
11 shall submit to the local or regional government an [~~economic~~  
12 ~~development project~~] application for public support of a  
13 qualifying entity's economic development project.

14 B. The application shall be on a form and require  
15 such information as the local or regional government deems  
16 necessary."

17 SECTION 6. Section 5-10-9 NMSA 1978 (being Laws 1993,  
18 Chapter 297, Section 9, as amended) is amended to read:

19 "5-10-9. PROJECT EVALUATION--DEPARTMENT.--

20 A. The local or regional government shall review  
21 each [~~project~~] application for public support submitted  
22 pursuant to Section 5-10-8 NMSA 1978, and [~~projects~~] any public  
23 support shall be approved by ordinance.

24 B. The local or regional government's evaluation of  
25 an application shall be based on the provisions of the economic

underscored material = new  
~~[bracketed material]~~ = delete

1 development plan, the financial and management stability of the  
2 qualifying entity, the demonstrated commitment of the  
3 qualifying entity to the community, a cost-benefit analysis of  
4 the project and any other information the local or regional  
5 government believes is necessary for a full review of the  
6 economic development project application.

7 C. The local or regional government may negotiate  
8 with a qualifying entity on the type or amount of ~~[assistance]~~  
9 public support to be provided or on the scope of the economic  
10 development project."

11 SECTION 7. Section 5-10-11 NMSA 1978 (being Laws 1993,  
12 Chapter 297, Section 11) is amended to read:

13 "5-10-11. PROJECT REVENUES--SPECIAL FUND--ANNUAL AUDIT.--

14 A. Local or regional government revenues dedicated  
15 or pledged for ~~[funding or financing of]~~ public support for  
16 economic development projects shall be deposited in a separate  
17 account. Separate accounts shall be established for each  
18 separate project. Money in the special account shall be  
19 expended only for economic development project purposes, which  
20 may include the payment of necessary professional services  
21 contract costs.

22 B. In the case of a regional government, revenues  
23 of each local government dedicated or pledged for economic  
24 development purposes shall be deposited in a special account of  
25 that local government and may be expended only by that local

.218469.6GLG

underscored material = new  
[bracketed material] = delete

1 government as provided by the regional government's economic  
2 development plan and joint powers agreement.

3 C. The local or regional government shall provide  
4 for an annual independent audit in accordance with the Audit  
5 Act of each special fund and project account. The audit shall  
6 be submitted to the local or regional government. The audit is  
7 a public record."

8 SECTION 8. Section 5-10-12 NMSA 1978 (being Laws 1993,  
9 Chapter 297, Section 12) is amended to read:

10 "5-10-12. PLAN AND PROJECT TERMINATION.--

11 A. At any time after approval of an economic  
12 development plan, the governing body of the local government or  
13 the governing body of each local government in a regional  
14 government may enact an ordinance terminating the economic  
15 development plan and dissolving or terminating any or all  
16 public support for economic development projects. An ordinance  
17 repealing an economic development plan shall not be effective  
18 unless the ordinance provides for satisfying existing contracts  
19 and the rights of the parties arising from those contracts.

20 B. Any unexpended and unencumbered balances  
21 remaining in any project fund or account upon repeal of a plan  
22 and termination of public support for or dissolution of a  
23 project may be transferred to the general fund of the local  
24 government holding the fund or account. In the case of funds  
25 or accounts of a regional government, the unexpended and

.218469.6GLG

underscored material = new  
[bracketed material] = delete

1 unencumbered balances shall be divided among the local  
2 governments as provided in the joint powers agreement."

3 SECTION 9. Section 5-10-14 NMSA 1978 (being Laws 2020,  
4 Chapter 74, Section 1) is amended to read:

5 "5-10-14. LOCAL [~~AND REGIONAL~~] ECONOMIC DEVELOPMENT  
6 [~~SUPPORT~~] ACT FUND [~~ECONOMIC DEVELOPMENT DEPARTMENT~~].--

7 A. The "Local [~~and regional~~] Economic Development  
8 [~~support~~] Act fund" is created in the state treasury. [~~The~~  
9 ~~fund consists of gifts, grants, donations and bequests made to~~  
10 ~~the fund and appropriations made to the department for projects~~  
11 ~~pursuant to the Local Economic Development Act.~~] Income from  
12 the fund shall be credited to the fund. Money in the fund  
13 shall not revert or be transferred to any other fund at the end  
14 of a fiscal year. [~~B.~~] The department shall administer the  
15 fund, and money in the fund is appropriated to the department  
16 to pay the cost of administering the fund and for  
17 [~~participation in local and regional~~] economic development  
18 projects [~~as determined by the department~~] pursuant to the  
19 Local Economic Development Act. [~~C.~~] Money in the fund shall  
20 be expended on warrants of the department of finance and  
21 administration pursuant to vouchers signed by the secretary of  
22 economic development.

23 B. The following may be used to provide public  
24 support for economic development projects of qualifying  
25 entities pursuant Section 10 of this 2021 act:

.218469.6GLG

underscored material = new  
[bracketed material] = delete

1                   (1) up to seventy-five percent of the tax  
2 revenue attributable to the state gross receipts tax and the  
3 compensating tax, as determined pursuant to Subsection A of  
4 Section 10 of this 2021 act, and distributed pursuant to  
5 Subsection A of Section 14 of this 2021 act; and

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

13                   SECTION 10. A new section of the Local Economic  
14 Development Act is enacted to read:

15                   "[NEW MATERIAL] GROSS RECEIPTS TAX AND COMPENSATING TAX  
16 REVENUE AS PUBLIC SUPPORT FOR CERTAIN PROJECTS.--

17                   A. A qualifying entity that meets the following  
18 requirements may receive public support for the qualifying  
19 entity's economic development project from funds in the Local  
20 Economic Development Act fund pursuant to Subsection B of  
21 Section 5-10-14 NMSA 1978 in an amount determined by the  
22 department but not to exceed seventy-five percent of the net  
23 receipts attributable to the gross receipts tax and  
24 compensating tax imposed on the expenses related to the  
25 construction of the qualifying entity's project, as determined

.218469.6GLG

underscored material = new  
~~[bracketed material]~~ = delete

1 by the department, related to the economic development project  
2 and the amount dedicated pursuant to Subsection B of this  
3 section; provided that the public support shall be provided for  
4 a period of no more than ten years, beginning on the date the  
5 applicable project participation agreement with the qualifying  
6 entity is executed:

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

14 (2) the qualifying entity signs a project  
15 participation agreement with the department; provided that the  
16 department shall not sign the agreement unless the applicable  
17 local governments have signed a project participation agreement  
18 pursuant to Paragraph (1) of this subsection;

19 (3) the economic development project has a  
20 reasonable expectation to incur, within ten years of the date  
21 the project participation agreement with the local government  
22 and the department is executed, at least three hundred fifty  
23 million dollars (\$350,000,000) in expenses related to the  
24 construction and infrastructure of the project in the state;

25 (4) the qualifying entity and the economic

underscoring material = new  
~~[bracketed material] = delete~~

1 development project meet all other requirements to receive  
2 public support pursuant to the Local Economic Development Act;  
3 and

4 (5) prior to the end of each month, the  
5 qualifying entity submits the appropriate documents, including  
6 tax documents of the qualifying entity and its contractors  
7 submitted to the taxation and revenue department, to the  
8 department and to the local governments with which the  
9 qualifying entity signed a project participation agreement, on  
10 forms and in a manner determined by the department, of the  
11 taxable expenses related to the construction of the economic  
12 development project for the previous month.

13 B. A local government may dedicate, by ordinance,  
14 fifty-six and twenty-five hundredths percent of the tax revenue  
15 attributable to the gross receipts and compensating taxes  
16 imposed by the local government on the qualifying entity's  
17 receipts for construction-related expenses, as determined by  
18 the department, related to the economic development project to  
19 the Local Economic Development Act fund for the purposes  
20 provided in Subsection B of Section 5-10-14 NMSA 1978.

21 C. If the requirements of Subsection A of this  
22 section have been met, the department and the local governments  
23 that signed a project participation agreement with the  
24 qualifying entity shall:

25 (1) review the documents submitted by a

.218469.6GLG



underscored material = new  
~~[bracketed material] = delete~~

1 qualifying entity pursuant to Paragraph (5) of Subsection A of  
2 this section;

3 (2) estimate the amount equal to seventy-five  
4 percent of the tax revenue attributable to the gross receipts  
5 tax and compensating tax imposed on the taxable expenses  
6 related to the construction of the economic development project  
7 appropriate to:

8 (a) the local government's gross  
9 receipts and compensating taxes if a local government; and

10 (b) the state gross receipts and  
11 compensating taxes if the department;

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

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

20 D. The taxation and revenue department shall review  
21 the estimated amounts for accuracy and computation, make any  
22 necessary corrections or adjustments and make a final  
23 determination of the amounts to be distributed pursuant to  
24 Section 14 of this 2021 act. The taxation and revenue  
25 department shall provide notice of the final determination,

.218469.6GLG

underscored material = new  
~~[bracketed material]~~ = delete

1 including the reasoning for any corrections or adjustments  
2 made, prior to making the distribution."

3 SECTION 11. A new section of the Local Economic  
4 Development Act is enacted to read:

5 "[NEW MATERIAL] GRANTS TO REIMBURSE RENT OR LEASE PAYMENTS  
6 FOR CERTAIN BUSINESSES.--

7 A. Prior to January 1, 2023, the department may use  
8 funds transferred pursuant to Section 15 of this 2021 act or  
9 other funds appropriated by the legislature to the department  
10 for the purpose of transferring those funds to the authority to  
11 provide recovery grants to recovery entities pursuant to this  
12 section.

13 B. The department and the authority shall enter  
14 into a memorandum of understanding to develop a program for the  
15 authority to accept a transfer of funds from the department  
16 pursuant to Subsection A of this section, to provide recovery  
17 grants to recovery entities, to accept and review applications  
18 for recovery grants and to disburse recovery grants to recovery  
19 entities. The authority shall require documentation from  
20 applicants of tax obligations and payments, employment levels  
21 and rent and lease payments for taxable years 2020 through  
22 2022. The authority shall prioritize funding to applicants  
23 that had the greatest decline in business revenues from taxable  
24 year 2019 to taxable year 2020. The department shall provide  
25 oversight of the program and may set policies and promulgate

.218469.6GLG

underscoring material = new  
~~[bracketed material] = delete~~

1 rules in accordance with this section. The authority shall  
2 adopt rules in consultation with the department to govern the  
3 application procedures and requirements for disbursing recovery  
4 grants, including requirements consistent with the purpose of  
5 this section for determining the eligibility of recovery  
6 entities for grants; provided that the authority shall not  
7 create additional requirements for eligibility other than those  
8 provided by this section.

9 C. To receive a recovery grant, a recovery entity  
10 shall agree to:

11 (1) use the proceeds of the recovery grant for  
12 reimbursement of rent or lease obligations of the recovery  
13 entity for its business locations within the state of New  
14 Mexico;

15 (2) provide a written certification signed by  
16 an appropriate officer of the recovery entity that certifies  
17 that:

18 (a) the officer understands that the  
19 recovery entity receiving a recovery grant shall provide  
20 documentation that tax payments made to the state in each  
21 taxable year during the term of the agreement exceed the sum of  
22 the recovery entity's tax payments during taxable year 2020  
23 plus the amount of recovery grants received in each taxable  
24 year;

25 (b) the officer understands that,

.218469.6GLG

underscored material = new  
~~[bracketed material] = delete~~

1 pursuant to the Local Economic Development Act, the recovery  
2 grant shall be accompanied by new job creation in accordance  
3 with department rules and policies and the terms of the  
4 agreement issued by the authority to the recovery entity in  
5 advance of disbursement of the recovery grant;

6 (c) all documents submitted in support  
7 of the recovery grant application are true and accurate to the  
8 best of the officer's knowledge;

9 (d) the officer has a reasonable basis  
10 to believe that, as of the date of a recovery grant application  
11 and receipt of any recovery grant, the recovery entity does not  
12 expect to permanently cease business operations or file for  
13 bankruptcy;

14 (e) as of the date of a recovery grant  
15 application and of receipt of a recovery grant, the recovery  
16 entity is current on all obligations pursuant to the Income Tax  
17 Act, the Corporate Income and Franchise Tax Act, the  
18 Withholding Tax Act, the Gross Receipts and Compensating Tax  
19 Act and the Unemployment Compensation Law applicable to the  
20 recovery entity's business operations; and

21 (f) all recovery grant proceeds will be  
22 used for the purpose of payment of rent or lease payments of  
23 the recovery entity pursuant to the Local Economic Development  
24 Act;

25 (3) upon request, provide the department and

.218469.6GLG

underscoring material = new  
~~[bracketed material]~~ = delete

1 the authority with information relevant to the reporting  
2 requirements of the department and the authority pursuant to  
3 Subsection H of this section; and

4 (4) submit an application to the authority for  
5 a recovery grant pursuant to rules established by the  
6 authority, but no later than December 31, 2021.

7 D. Up to one hundred thousand dollars (\$100,000) in  
8 a recovery grant may be provided to each recovery entity in  
9 quarterly payments in an amount of up to twenty-five percent of  
10 the total amount of the recovery grant awarded to the recovery  
11 entity. To determine the amount of a recovery grant, each  
12 full-time-equivalent employee added to the payroll of a  
13 recovery entity in each quarter shall qualify for five thousand  
14 dollars (\$5,000), not to exceed twenty-five thousand dollars  
15 (\$25,000) per quarter. To remain eligible for additional  
16 quarterly payments, a recovery entity shall provide  
17 documentation to the department and to the authority  
18 demonstrating the following:

19 (1) the recovery entity remains active and  
20 open with new full-time-equivalent employees added to the  
21 payroll in the prior quarter, as submitted quarterly to the  
22 workforce solutions department from the date of application to  
23 the date of receipt of a recovery grant payment;

24 (2) the recovery entity is current on rent and  
25 lease obligations and those obligations were equal to or

underscored material = new  
~~[bracketed material] = delete~~

1 greater than the amount of any prior recovery grant payments  
2 disbursed to the recovery entity;

3 (3) the recovery entity is current on state  
4 and local tax obligations; and

5 (4) taxes paid to the state in each fiscal  
6 year during the agreement pursuant to Subsection C of this  
7 section exceed taxes paid to the state in taxable year 2020,  
8 and the excess is due to a result of business activity and  
9 hiring of employees during the time frame of the agreement.  
10 The excess shall be deemed to meet the state's requirement to  
11 invest money in the severance tax permanent fund pursuant to  
12 Article 8, Section 10 of the constitution of New Mexico.

13 E. If, on the effective date of this 2021 act,  
14 there remains in effect a public health order that requires  
15 businesses to remain closed, the department and the authority  
16 shall set aside a portion of the funds available for recovery  
17 grants until such time as the public health order ceases to be  
18 in effect or is changed to permit all businesses subject to the  
19 public health order to be open. The portion set aside shall be  
20 estimated, at the discretion of the department and the  
21 authority, to represent the number of recovery entities and  
22 employees impacted by the public health order, but in no case  
23 shall exceed twenty percent of the total funds transferred  
24 pursuant to Section 15 of this 2021 act.

25 F. Upon the effective date of this 2021 act, the

.218469.6GLG

underscored material = new  
~~[bracketed material]~~ = delete

1 department and the state investment council shall coordinate to  
2 develop a funding schedule to ensure that sufficient funding is  
3 made available to the department to carry out the provisions of  
4 this section.

5 G. Information obtained by the department and the  
6 authority regarding individual recovery entity grant applicants  
7 shall be confidential and not subject to inspection pursuant to  
8 the Inspection of Public Records Act; provided that nothing in  
9 this section shall prevent the department and the authority  
10 from disclosing broad demographic information and information  
11 relating to the total amount of recovery grants made, the total  
12 outstanding balance of recovery grants made and the names of  
13 the recovery entities that received recovery grants.

14 H. The department and the authority shall submit an  
15 annual report in each year of 2021 through 2023 to the  
16 legislature, the legislative finance committee, the New Mexico  
17 finance authority oversight committee, the revenue  
18 stabilization and tax policy committee and the interim  
19 legislative committee concerning economic and rural  
20 development. The report shall provide information regarding  
21 recovery grants made pursuant to this section. The report  
22 shall include:

23 (1) the total dollar value of recovery grants  
24 made to date, along with breakouts of disbursements by  
25 quarterly payment number;

.218469.6GLG

1 (2) the number of recovery entities assisted,  
2 in total and by county;

3 (3) the total number of new jobs created and  
4 the total number of employees currently employed by recovery  
5 entities that received grants;

6 (4) the total projected annual payroll for the  
7 jobs created;

8 (5) the state tax revenues generated by the  
9 recovery entities that have received and are receiving recovery  
10 grants, in total, and the estimated increase in state tax  
11 revenues in excess of state tax revenues in taxable year 2020  
12 that are attributable to recovery entities that received  
13 recovery grants;

14 (6) the total number of recovery grant  
15 applications;

16 (7) the number of recovery entities, if any,  
17 that received initial payments but were determined to be  
18 ineligible for additional quarterly payments; and

19 (8) an overview of the industries and types of  
20 business entities represented by recovery entities that  
21 received recovery grants.

22 I. As used in this section:

23 (1) "authority" means the New Mexico finance  
24 authority;

25 (2) "recovery entity" means a corporation,



underscoring material = new  
~~[bracketed material] = delete~~

1 limited liability company, partnership, joint venture,  
2 syndicate, association or other person that:

3 (a) is a business operating in New  
4 Mexico with one or more employees but with fewer than seventy-  
5 five people employed at any of the business's business  
6 locations;

7 (b) filed tax returns to the taxation  
8 and revenue department demonstrating a decline in business  
9 revenues for taxable year 2020 greater than or equal to  
10 twenty-five percent from revenues for taxable year 2019; and

11 (c) is current on all state or local tax  
12 obligations;

13 (3) "recovery grant" means a grant disbursed  
14 to a recovery entity by the authority from funds provided by  
15 the department from a transfer from the severance tax permanent  
16 fund for the purpose of reimbursement of rent or lease payments  
17 of the recovery entity pursuant to the Local Economic  
18 Development Act; and

19 (4) "taxable year" means "taxable year" as  
20 that term is used in the Income Tax Act or the Corporate Income  
21 and Franchise Tax Act, as applicable to a recovery entity."

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

24 "7-1-6.12. TRANSFER--REVENUES FROM MUNICIPAL LOCAL OPTION  
25 GROSS RECEIPTS AND COMPENSATING TAXES.--

.218469.6GLG

underscored material = new  
[bracketed material] = delete

1           A. A transfer pursuant to Section 7-1-6.1 NMSA 1978  
2 shall be made to each municipality for which the department is  
3 collecting a local option gross receipts tax and municipal  
4 compensating tax imposed by that municipality in an amount,  
5 subject to any increase or decrease made pursuant to Section  
6 7-1-6.15 NMSA 1978, equal to the net receipts attributable to  
7 the local option gross receipts tax and municipal compensating  
8 tax imposed by that municipality, less any deduction for  
9 administrative cost determined and made by the department  
10 pursuant to the provisions of the act authorizing imposition by  
11 that municipality of the local option gross receipts tax and  
12 municipal compensating tax and any additional administrative  
13 fee withheld pursuant to Section 7-1-6.41 NMSA 1978.

14           B. A transfer pursuant to this section may be  
15 adjusted for a distribution made to a tax increment development  
16 district with respect to a portion of a gross receipts tax  
17 increment dedicated by a municipality pursuant to the Tax  
18 Increment for Development Act.

19           C. A transfer pursuant to this section shall be  
20 adjusted for a distribution made to the Local Economic  
21 Development Act fund pursuant to Section 14 of this 2021 act  
22 and with respect to the amount dedicated by a municipality  
23 pursuant to Subsection B of Section 10 of this 2021 act."

24           SECTION 13. Section 7-1-6.13 NMSA 1978 (being Laws 1983,  
25 Chapter 211, Section 18, as amended) is amended to read:

.218469.6GLG

underscoring material = new  
[bracketed material] = delete

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

3           A. ~~[Except as provided in Subsection B of this~~  
4 ~~section]~~ A transfer pursuant to Section 7-1-6.1 NMSA 1978 shall  
5 be made to each county for which the department is collecting a  
6 local option gross receipts tax and county compensating tax  
7 imposed by that county in an amount, subject to any increase or  
8 decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to  
9 the net receipts attributable to the local option gross  
10 receipts tax and county compensating tax imposed by that  
11 county, less any deduction for administrative cost determined  
12 and made by the department pursuant to the provisions of the  
13 act authorizing imposition by that county of the local option  
14 gross receipts tax and county compensating tax and any  
15 additional administrative fee withheld pursuant to Section  
16 7-1-6.41 NMSA 1978.

17           B. A transfer pursuant to this section may be  
18 adjusted for a distribution made to a tax increment development  
19 district with respect to a portion of a gross receipts tax  
20 increment dedicated by a county pursuant to the Tax Increment  
21 for Development Act.

22           C. A transfer pursuant to this section shall be  
23 adjusted for a distribution made to the Local Economic  
24 Development Act fund pursuant to Section 14 of this 2021 act  
25 and with respect to the amount dedicated by a county pursuant

.218469.6GLG

underscoring material = new  
[bracketed material] = delete

1 to Subsection B of Section 10 of this 2021 act."

2 SECTION 14. A new section of the Tax Administration Act  
3 is enacted to read:

4 "[NEW MATERIAL] DISTRIBUTION--LOCAL ECONOMIC DEVELOPMENT  
5 ACT FUND.--

6 A. A distribution pursuant to Section 7-1-6.1 NMSA  
7 1978 shall be made to the Local Economic Development Act fund  
8 equal to the following amounts of the following taxes imposed  
9 and paid on the expenses related to the construction of the  
10 qualifying entity's economic development project, as determined  
11 pursuant to Section 10 of this 2021 act:

12 (1) seventy-five percent of the net receipts  
13 attributable to gross receipts tax and the compensating tax;  
14 and

15 (2) fifty-six and twenty-five hundredths of  
16 the net receipts attributable to the local option gross  
17 receipts tax and county compensating tax imposed by a county  
18 and local option gross receipts tax and municipal compensating  
19 tax imposed by a municipality.

20 B. As used in this section:

21 (1) "economic development project" means  
22 "economic development project" as used in the Local Economic  
23 Development Act; and

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

.218469.6GLG

