

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

SENATE BILL 1

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

INTRODUCED BY

Siah Correa Hemphill and Ron Griggs and Christine Chandler and  
Jason C. Harper

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; 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 PURSUANT TO THE  
LOCAL ECONOMIC DEVELOPMENT ACT; PROVIDING TRANSFERS AND  
DISTRIBUTIONS OF THE PORTION OF STATE AND LOCAL GROSS RECEIPTS  
AND COMPENSATING TAX REVENUE; DECLARING AN EMERGENCY.

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

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

"5-10-14. LOCAL ECONOMIC DEVELOPMENT ACT FUND.--

A. The "Local Economic Development Act fund" is  
created in the state treasury. Income from the fund shall be  
credited to the fund. Money in the fund shall not revert or be

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 transferred to any other fund at the end of a fiscal year. The  
2 department shall administer the fund, and money in the fund is  
3 appropriated to the department to pay the cost of administering  
4 the fund and for economic development projects pursuant to the  
5 Local Economic Development Act. Money in the fund shall be  
6 expended on warrants of the department of finance and  
7 administration pursuant to vouchers signed by the secretary of  
8 economic development.

9 B. The following may be used to provide public  
10 support for certain economic development projects of qualifying  
11 entities pursuant to Section 2 of this 2021 act and shall be  
12 separately accounted for in the fund:

13 (1) fifty percent of the tax revenue  
14 attributable to the state gross receipts tax and the state  
15 compensating tax, as determined pursuant to Subsection A of  
16 Section 2 of this 2021 act, and distributed pursuant to  
17 Subsection A of Section 5 of this 2021 act; and

18 (2) that portion of the tax revenue  
19 attributable to the local option gross receipts tax and county  
20 compensating tax imposed by a county and local option gross  
21 receipts tax and municipal compensating tax imposed by a  
22 municipality dedicated pursuant to Subsection B of Section 2 of  
23 this 2021 act and distributed pursuant to Subsection B of  
24 Section 5 of this 2021 act."

25 SECTION 2. A new section of the Local Economic

.221022.1GLG

underscoring material = new  
[bracketed material] = delete

1 Development Act is enacted to read:

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

4 A. A qualifying entity that meets the following  
5 requirements may receive public support for the qualifying  
6 entity's economic development project from funds in the Local  
7 Economic Development Act fund pursuant to Subsection B of  
8 Section 5-10-14 NMSA 1978 in an amount equal to fifty percent  
9 of the net receipts attributable to the state gross receipts  
10 tax and state compensating tax imposed on the expenses related  
11 to the construction of the qualifying entity's project, as  
12 determined by the department, related to the economic  
13 development project and the amount dedicated pursuant to  
14 Subsection B of this section; provided that the public support  
15 shall be provided for a period of no more than ten years,  
16 beginning on the date the applicable project participation  
17 agreement with the qualifying entity is executed:

18 (1) the qualifying entity signs a project  
19 participation agreement with the governing body of each local  
20 government that has jurisdiction of the area in which the  
21 qualifying entity's economic development project is located and  
22 the local government has passed an ordinance dedicating local  
23 government gross receipts tax revenue pursuant to Subsection B  
24 of this section;

25 (2) the qualifying entity signs a project

.221022.1GLG

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

1 participation agreement with the department; provided that the  
2 department shall not sign the agreement unless the applicable  
3 local governments have signed a project participation agreement  
4 pursuant to Paragraph (1) of this subsection; and provided  
5 further that the project participation agreement shall provide  
6 that if, at the end of the ten-year period, the economic  
7 development project fails to meet the three-hundred-fifty-  
8 million-dollar (\$350,000,000) requirement pursuant to Paragraph  
9 (3) of this subsection, the department shall seek to recover  
10 some or all of the public support provided to the qualifying  
11 entity and shall transfer any amount recovered to the general  
12 fund and to the contributing local government based on each  
13 entity's pro rata share of public support to the economic  
14 development project;

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

21 (4) the qualifying entity and the economic  
22 development project meet all other requirements to receive  
23 public support pursuant to the Local Economic Development Act;  
24 and

25 (5) prior to the end of each month, the

.221022.1GLG

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

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

9 B. A local government may dedicate, by ordinance,  
10 fifty percent of the tax revenue attributable to the gross  
11 receipts and compensating taxes imposed by the local government  
12 on the qualifying entity's receipts for expenses related to the  
13 construction of the economic development project to the Local  
14 Economic Development Act fund for the purposes provided in  
15 Subsection B of Section 5-10-14 NMSA 1978.

16 C. Within thirty days after execution of a project  
17 participation agreement with a qualifying entity, the  
18 department shall issue a report to the department of finance  
19 and administration and the legislative finance committee that  
20 shall identify the qualifying entity intended to receive public  
21 support pursuant to this section, the estimated expenses  
22 related to the construction of the qualifying entity's project  
23 as determined by the department, the location of the project,  
24 the amount of public support pledged by the department and each  
25 local government for the project pursuant to this section and

.221022.1GLG

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

1 the amount of any other public support pledged for the project  
2 pursuant to the Local Economic Development Act.

3 D. As soon as practicable, the taxation and revenue  
4 department shall implement a rate type to identify gross  
5 receipts and compensating taxes reported and paid to the  
6 taxation and revenue department for expenses related to the  
7 construction of an economic development project. Once  
8 implemented, all such gross receipts and compensating taxes  
9 shall be reported and paid with that rate type.

10 E. If the taxation and revenue department has not  
11 implemented the rate type provided in Subsection D of this  
12 section, and if the requirements of Subsection A of this  
13 section have been met, the economic development department and  
14 the local governments that signed a project participation  
15 agreement with the qualifying entity shall:

16 (1) review the documents submitted by a  
17 qualifying entity pursuant to Paragraph (5) of Subsection A of  
18 this section;

19 (2) estimate the amount equal to fifty percent  
20 of the tax revenue attributable to the gross receipts tax and  
21 compensating tax imposed on the taxable expenses related to the  
22 construction of the economic development project appropriate  
23 to:

24 (a) the local government's gross  
25 receipts and compensating taxes if a local government; and

.221022.1GLG

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

1 (b) the state gross receipts and  
2 compensating taxes if the department;

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

6 (4) if the department, on or before the  
7 twenty-fifth day of December, March, June and September,  
8 provide the estimates and any supporting documentation to the  
9 taxation and revenue department, on forms and in a manner  
10 determined by that department.

11 F. The taxation and revenue department shall review  
12 the amounts estimated pursuant to Subsection E of this section  
13 for accuracy and computation, make any necessary corrections or  
14 adjustments and make a final determination of the amounts to be  
15 distributed from the relevant tax revenue pursuant to Section 5  
16 of this 2021 act."

17 **SECTION 3.** Section 7-1-6.12 NMSA 1978 (being Laws 1983,  
18 Chapter 211, Section 17, as amended) is amended to read:

19 "7-1-6.12. TRANSFER--REVENUES FROM MUNICIPAL LOCAL OPTION  
20 GROSS RECEIPTS AND COMPENSATING TAXES.--

21 A. A transfer pursuant to Section 7-1-6.1 NMSA 1978  
22 shall be made to each municipality for which the department is  
23 collecting a local option gross receipts tax and municipal  
24 compensating tax imposed by that municipality in an amount,  
25 subject to any increase or decrease made pursuant to Section

.221022.1GLG

underscored material = new  
[bracketed material] = delete

1 7-1-6.15 NMSA 1978, equal to the net receipts attributable to  
2 the local option gross receipts tax and municipal compensating  
3 tax imposed by that municipality, less any deduction for  
4 administrative cost determined and made by the department  
5 pursuant to the provisions of the act authorizing imposition by  
6 that municipality of the local option gross receipts tax and  
7 municipal compensating tax and any additional administrative  
8 fee withheld pursuant to Section 7-1-6.41 NMSA 1978.

9 B. A transfer pursuant to this section may be  
10 adjusted for a distribution made to a tax increment development  
11 district with respect to a portion of a gross receipts tax  
12 increment dedicated by a municipality pursuant to the Tax  
13 Increment for Development Act.

14 C. A transfer pursuant to this section shall be  
15 adjusted for a distribution made to the Local Economic  
16 Development Act fund pursuant to Section 5 of this 2021 act and  
17 with respect to the amount dedicated by a municipality pursuant  
18 to Subsection B of Section 2 of this 2021 act."

19 SECTION 4. Section 7-1-6.13 NMSA 1978 (being Laws 1983,  
20 Chapter 211, Section 18, as amended) is amended to read:

21 "7-1-6.13. TRANSFER--REVENUES FROM COUNTY LOCAL OPTION  
22 GROSS RECEIPTS AND COMPENSATING TAXES.--

23 A. ~~[Except as provided in Subsection B of this~~  
24 ~~section]~~ A transfer pursuant to Section 7-1-6.1 NMSA 1978 shall  
25 be made to each county for which the department is collecting a

.221022.1GLG



underscoring material = new  
[bracketed material] = delete

1 local option gross receipts tax and county compensating tax  
2 imposed by that county in an amount, subject to any increase or  
3 decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to  
4 the net receipts attributable to the local option gross  
5 receipts tax and county compensating tax imposed by that  
6 county, less any deduction for administrative cost determined  
7 and made by the department pursuant to the provisions of the  
8 act authorizing imposition by that county of the local option  
9 gross receipts tax and county compensating tax and any  
10 additional administrative fee withheld pursuant to Section  
11 7-1-6.41 NMSA 1978.

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

17 C. A transfer pursuant to this section shall be  
18 adjusted for a distribution made to the Local Economic  
19 Development Act fund pursuant to Section 5 of this 2021 act and  
20 with respect to the amount dedicated by a county pursuant to  
21 Subsection B of Section 2 of this 2021 act."

22 SECTION 5. A new section of the Tax Administration Act is  
23 enacted to read:

24 "[NEW MATERIAL] DISTRIBUTION--LOCAL ECONOMIC DEVELOPMENT  
25 ACT FUND.--

.221022.1GLG

underscored material = new  
[bracketed material] = delete

1           A. A distribution pursuant to Section 7-1-6.1 NMSA  
2 1978 shall be made to the Local Economic Development Act fund  
3 equal to the following amounts of the following taxes imposed  
4 and paid on the expenses related to the construction of the  
5 qualifying entity's economic development project, as determined  
6 pursuant to Section 2 of this 2021 act:

7                     (1) fifty percent of the net receipts  
8 attributable to state gross receipts tax and the state  
9 compensating tax; and

10                    (2) fifty percent of the net receipts  
11 attributable to the local option gross receipts tax and county  
12 compensating tax imposed by a county and local option gross  
13 receipts tax and municipal compensating tax imposed by a  
14 municipality.

15           B. As used in this section:

16                     (1) "economic development project" means  
17 "economic development project" as used in the Local Economic  
18 Development Act; and

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

21           SECTION 6. EMERGENCY.--It is necessary for the public  
22 peace, health and safety that this act take effect immediately.