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SENATE BILL 357

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Mary Kay Papen

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO FINANCE; AMENDING THE STATEWIDE ECONOMIC DEVELOPMENT FINANCE ACT TO AUTHORIZE THE NEW MEXICO FINANCE AUTHORITY TO FORM, OPERATE OR OWN A COMMUNITY DEVELOPMENT ENTITY AND OTHERWISE PARTICIPATE IN THE FEDERAL NEW MARKETS TAX CREDIT PROGRAM.

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

Section 1. Section 6-25-3 NMSA 1978 (being Laws 2003, Chapter 349, Section 3, as amended) is amended to read:

"6-25-3. DEFINITIONS.--As used in the Statewide Economic Development Finance Act:

A. "authority" means the New Mexico finance authority;

B. "department" means the economic development department;

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1 C. "community development entity" means an entity
2 designed to take advantage of the federal new markets tax
3 credit program;

4 [~~E.~~] D. "economic development assistance
5 provisions" means the economic development assistance
6 provisions of Subsection D of Article 9, Section 14 of the
7 constitution of New Mexico;

8 [~~D.~~] E. "project revenue bonds" means bonds, notes
9 or other instruments authorized in Section 6-25-7 NMSA 1978 and
10 issued by the authority pursuant to the Statewide Economic
11 Development Finance Act on behalf of eligible entities;

12 [~~E.~~] F. "economic development goal" means:
13 (1) assistance to rural and underserved areas
14 designed to increase business activity;

15 (2) retention and expansion of existing
16 business enterprises;

17 (3) attraction of new business enterprises; or

18 (4) creation and promotion of an environment
19 suitable for the support of start-up and emerging business
20 enterprises within the state;

21 [~~F.~~] G. "economic development revolving fund bonds"
22 means bonds, notes or other instruments payable from the fund
23 and issued by the authority pursuant to the Statewide Economic
24 Development Finance Act;

25 [~~G.~~] H. "eligible entity" means a for-profit or

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1 not-for-profit business enterprise, including a corporation,
2 limited liability company, partnership or other entity,
3 determined by the department to be engaged in an enterprise
4 that serves an economic development goal and is suitable for
5 financing assistance;

6 I. "federal new markets tax credit program" means
7 the tax credit program codified as Section 45D of the Internal
8 Revenue Code, as that section may be amended or renumbered, and
9 regulations issued pursuant to that section;

10 [~~H.~~] J. "financing assistance" means project
11 revenue bonds, loans, loan participations or loan guarantees
12 provided by the authority to or for eligible entities pursuant
13 to the Statewide Economic Development Finance Act;

14 [~~F.~~] K. "fund" means the economic development
15 revolving fund;

16 [~~J.~~] L. "mortgage" means a mortgage, deed of trust
17 or pledge of any assets as a collateral security;

18 [~~K.~~] M. "opt-in agreement" means an agreement
19 entered into between the department and a qualifying county, a
20 school district and, if applicable, a qualifying municipality
21 that provides for county, school district and, if applicable,
22 municipal approval of a project, subject to compliance with all
23 local zoning, permitting and other land use rules, and for
24 payments in lieu of taxes to the qualifying county, school
25 district and, if applicable, qualifying municipality as

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1 provided by the Statewide Economic Development Finance Act;

2 ~~[L-]~~ N. "payment in lieu of taxes" means the total
3 annual payment, including any state in-lieu payment, paid as
4 compensation for the tax impact of a project, in an amount
5 negotiated and determined in the opt-in agreement between the
6 department and the qualifying county, the school district and,
7 if applicable, the qualifying municipality, which payment shall
8 be distributed to the county, municipality and school district
9 in the same proportion as property tax revenues are normally
10 distributed to those recipients;

11 ~~[M-]~~ O. "standard project" means land, buildings,
12 improvements, machinery and equipment, operating capital and
13 other personal property for which financing assistance is
14 provided for adequate consideration, taking into account the
15 anticipated quantifiable benefits of the standard project, for
16 use by an eligible entity as:

- 17 (1) industrial or manufacturing facilities;
18 (2) commercial facilities, including
19 facilities for wholesale sales and services;
20 (3) health care facilities, including
21 hospitals, clinics, laboratory facilities and related office
22 facilities;
23 (4) educational facilities, including schools;
24 (5) arts, entertainment or cultural
25 facilities, including museums, theaters, arenas or assembly

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1 halls; and

2 (6) recreational and tourism facilities,
3 including parks, pools, trails, open space and equestrian
4 facilities;

5 [~~N-~~] P. "project" means a standard project or a
6 state project;

7 [~~Q-~~] Q. "qualifying municipality or county" means a
8 municipality or county that enters into an opt-in agreement;

9 [~~P-~~] R. "quantifiable benefits" means a project's
10 advancement of an economic development goal as measured by a
11 variety of factors, including:

12 (1) the benefits an eligible entity contracts
13 to provide, such as local hiring quotas, job training
14 commitments and installation of public facilities or
15 infrastructure; and

16 (2) other benefits such as the total number of
17 direct and indirect jobs created by the project, total amount
18 of annual salaries to be paid as a result of the project, total
19 gross receipts and occupancy tax collections, total property
20 tax collections, total state corporate and personal income tax
21 collections and other fee and revenue collections resulting
22 from the project;

23 [~~Q-~~] S. "school district" means a school district
24 where a project is located that is exempt from property taxes
25 pursuant to the Statewide Economic Development Finance Act;

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1 ~~[R-]~~ T. "state in-lieu payment" means an annual
2 payment, in an amount determined by the department, that will
3 be distributed to a qualifying county, a school district and,
4 if applicable, a qualifying municipality in the same proportion
5 as property tax revenues are normally distributed to those
6 recipients;

7 ~~[S-]~~ U. "state project" means land, buildings or
8 infrastructure for facilities to support new or expanding
9 eligible entities for which financing assistance is provided
10 pursuant to the economic development assistance provisions; and

11 ~~[F-]~~ V. "tax impact of a project" means the annual
12 reduction in property tax revenue to affected property tax
13 revenue recipients directly resulting from the conveyance of a
14 project to the department."

15 Section 2. A new section of the Statewide Economic
16 Development Finance Act, Section 6-25-6.1 NMSA 1978, is enacted
17 to read:

18 "6-25-6.1. [NEW MATERIAL] NEW MEXICO FINANCE AUTHORITY--
19 ADDITIONAL POWERS--FEDERAL NEW MARKETS TAX CREDIT PROGRAM.--In
20 addition to other powers granted to the authority, the
21 authority may form, operate, own or co-own one or more
22 nonprofit or for-profit qualified community development
23 entities for the purpose of participation in the federal new
24 markets tax credit program, and pursuant to participation in
25 the federal new markets tax credit program may:

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1 A. apply for and obtain one or more allocations of
2 new markets tax credits;

3 B. market and sell qualified equity investments;

4 C. make qualified low-income community investments;

5 and

6 D. take all actions necessary or convenient to
7 carry out the purposes of the qualified community development
8 entity or to participate in the federal new markets tax credit
9 program."

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