

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;

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

D. "economic development assistance provisions" means the economic development assistance provisions of Subsection D of Article 9, Section 14 of the constitution of New Mexico;

E. "project revenue bonds" means bonds, notes or other instruments authorized in Section 6-25-7 NMSA 1978 and

issued by the authority pursuant to the Statewide Economic Development Finance Act on behalf of eligible entities;

F. "economic development goal" means:

(1) assistance to rural and underserved areas designed to increase business activity;

(2) retention and expansion of existing business enterprises;

(3) attraction of new business enterprises;

or

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

G. "economic development revolving fund bonds" means bonds, notes or other instruments payable from the fund and issued by the authority pursuant to the Statewide Economic Development Finance Act;

H. "eligible entity" means a for-profit or not-for-profit business enterprise, including a corporation, limited liability company, partnership or other entity, determined by the department to be engaged in an enterprise that serves an economic development goal and is suitable for financing assistance;

I. "federal new markets tax credit program" means the tax credit program codified as Section 45D of the Internal Revenue Code, as that section may be amended or renumbered,

and regulations issued pursuant to that section;

J. "financing assistance" means project revenue bonds, loans, loan participations or loan guarantees provided by the authority to or for eligible entities pursuant to the Statewide Economic Development Finance Act;

K. "fund" means the economic development revolving fund;

L. "mortgage" means a mortgage, deed of trust or pledge of any assets as a collateral security;

M. "opt-in agreement" means an agreement entered into between the department and a qualifying county, a school district and, if applicable, a qualifying municipality that provides for county, school district and, if applicable, municipal approval of a project, subject to compliance with all local zoning, permitting and other land use rules, and for payments in lieu of taxes to the qualifying county, school district and, if applicable, qualifying municipality as provided by the Statewide Economic Development Finance Act;

N. "payment in lieu of taxes" means the total annual payment, including any state in-lieu payment, paid as compensation for the tax impact of a project, in an amount negotiated and determined in the opt-in agreement between the department and the qualifying county, the school district and, if applicable, the qualifying municipality, which payment shall be distributed to the county, municipality and school

district in the same proportion as property tax revenues are normally distributed to those recipients;

O. "standard project" means land, buildings, improvements, machinery and equipment, operating capital and other personal property for which financing assistance is provided for adequate consideration, taking into account the anticipated quantifiable benefits of the standard project, for use by an eligible entity as:

(1) industrial or manufacturing facilities;

(2) commercial facilities, including facilities for wholesale sales and services;

(3) health care facilities, including hospitals, clinics, laboratory facilities and related office facilities;

(4) educational facilities, including schools;

(5) arts, entertainment or cultural facilities, including museums, theaters, arenas or assembly halls; and

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

P. "project" means a standard project or a state project;

Q. "qualifying municipality or county" means a

municipality or county that enters into an opt-in agreement;

R. "quantifiable benefits" means a project's advancement of an economic development goal as measured by a variety of factors, including:

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

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

S. "school district" means a school district where a project is located that is exempt from property taxes pursuant to the Statewide Economic Development Finance Act;

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

U. "state project" means land, buildings or

infrastructure for facilities to support new or expanding eligible entities for which financing assistance is provided pursuant to the economic development assistance provisions; and

V. "tax impact of a project" means the annual reduction in property tax revenue to affected property tax revenue recipients directly resulting from the conveyance of a project to the department."

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

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

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

B. market and sell qualified equity investments;

C. make qualified low-income community

investments; and

D. take all actions necessary or convenient to

carry out the purposes of the qualified community development  
entity or to participate in the federal new markets tax credit  
program."

---