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AN ACT

RELATING TO ECONOMIC DEVELOPMENT; CHANGING THE CRITERIA
APPLICABLE TO RETAIL BUSINESS PROJECTS UNDERTAKEN THROUGH THE
LOCAL ECONOMIC DEVELOPMENT ACT; CLARIFYING THAT A RESTAURANT
OR LODGING ESTABLISHMENT IS A QUALIFYING ENTITY FOR PURPOSES
OF THAT ACT.

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

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

"5-10-1. SHORT TITLE.--Chapter 5, Article 10 NMSA 1978
may be cited as the "Local Economic Development Act"."

SECTION 2. 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. "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,
including theaters, museums, libraries, galleries, cultural
compounds, educational organizations, performing arts venues

1 and organizations, fine arts organizations, studios and media
2 laboratories and live-work housing facilities;

3 C. "department" means the economic development
4 department;

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

1 entity;

2 E. "governing body" means the city council, city
3 commission or board of trustees of a municipality or the
4 board of county commissioners of a county;

5 F. "local government" means a municipality or
6 county;

7 G. "municipality" means an incorporated city, town
8 or village;

9 H. "person" means an individual, corporation,
10 association, partnership or other legal entity;

11 I. "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;

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
6 Paragraph (5) or (9) of this subsection, not including
7 businesses primarily engaged in the sale of goods or
8 commodities at retail;

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

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

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

17 (7) a business that is the developer of a
18 metropolitan redevelopment project;

19 (8) a cultural facility; and

20 (9) a retail business;

21 J. "regional government" means any combination of
22 municipalities and counties that enter into a joint powers
23 agreement to provide for economic development projects
24 pursuant to a plan adopted by all parties to the joint powers
25 agreement; and

1 K. "retail business" means a business that is
2 primarily engaged in the sale of goods or commodities at
3 retail and that is located in a municipality with a
4 population, according to the most recent federal decennial
5 census, of:

6 (1) ten thousand or less; or

7 (2) more than ten thousand but less than
8 thirty-five thousand if:

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

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

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