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NOTICE OF PROPOSED RULEMAKING AND PUBLIC HEARING

The New Mexico Economic Development Department (“Department”) will hold a public hearing on Thursday, February 26, 2026, from 10:00 – 11:00 a.m. The hearing will be conducted in person at the following location:

Thursday, February 26, 2026, 10:00-11:00 a.m. Mountain Time

Mabry Hall located in the Jerry Apodaca Education Building, 300 Don Gaspar Ave., Santa Fe, NM 87501

The purpose of the rule hearing is to obtain input and public comment on proposed new rules relating to 2.95.1 NMAC, Strategic Economic Development Site Readiness Act, Laws 2025, Ch. 70 (Senate Bill 169 Approved April 7, 2025).

Copies of the proposed rule may be accessed online at <https://edd.newmexico.gov/about-us/public-notices/> or contact Department staff at info@edd.nm.gov (505) 827-0300.

The Department will accept written public comments on the proposed rule beginning January 27, 2026. Please submit written comments on the proposed rule to the Department via electronic mail at info@edd.nm.gov or by regular mail at 1100 S. Saint Francis Dr., Santa Fe, New Mexico, 87505. Written comments must be received no later than 5 p.m. on February 26, 2026. Comments received prior to the rule hearing will be posted to the Department website at <https://edd.newmexico.gov/about-us/public-notices/>. Interested persons will also be given the opportunity to present their comments during the rule hearing.

Individuals who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting are asked to contact the Department Staff as soon as possible at info@edd.nm.gov or (505) 827-0300. The Committee requests advance notice to provide required special accommodations at least one week prior to the meeting or as soon as possible.

Statutory Authority: Legal authority for this rulemaking may be found in the Strategic Economic Development Site Readiness Act, Section 6-25B-1 et seq., NMSA 1978, specifically 6-25B-5.D.

Proposed Rule:

This is a new Rule, 2.95.1 NMAC, Sections 1 through 16, effective March 24, 2026.

2.95.1.1 ISSUING AGENCY: Economic Development Department.
[2.95.1.1 NMAC - N, xx/xx/2025]

2.95.1.2 SCOPE: All public partners and private partners applying for Strategic Economic Development Site Readiness Act funds through the Economic Development Department.
[2.95.1.2 NMAC - N, xx/xx/2025]

2.95.1.3 STATUTORY AUTHORITY: Section 6-25B-5, NMSA 1978.
[2.95.1.3 NMAC - N, xx/xx/2025]

2.95.1.4 DURATION: Permanent.
[2.95.1.4 NMAC - N, xx/xx/2025]

2.95.1.5 EFFECTIVE DATE: xx/xx, 2025 unless a later date is cited at the end of a section.
[2.95.1.5 NMAC - N, xx/xx/2025]

2.95.1.6 OBJECTIVE:
A. Section 6-25B-3, NMSA 1978, provides that the department may enter into contracts with public

partners and private partners for site characterization studies of proposed economic development sites to determine the suitability of such sites for certification as a strategic economic development site.

B. Section 6-25B-4, NMSA 1978, creates the strategic economic development site advisory committee and provides that the department shall provide necessary administrative services to the committee.

C. Section 6-25B-5, NMSA 1978, provides that the committee is granted authority to recommend approval or disapproval of applications for grants or loans from the site readiness fund, or to make recommendations for funding from the public project revolving fund or other potential funding sources to public and private partners to assist in the evaluation of proposals for site characterization studies or proposed economic development sites to assess the suitability of a proposed strategic economic development site for development by a public partner or private partner, and to promulgate rules necessary to carry out the provisions of the act.

D. Section 6-25B-7, NMSA 1978, provides that the department shall administer the site readiness fund and recover from the fund the costs of administering the fund.

[2.95.1.6 NMAC - N, xx/xx/2025]

2.95.1.7 DEFINITIONS:

A. “**Act**” means the Strategic Economic Development Site Readiness Act, Sections 6-25B-1 through 6-25B-8, NMSA 1978, as the same may be amended and supplemented.

B. “**Application**” means a written document made publicly available by the department and filed with the department for the purpose of evaluating a public partner’s or private partner’s application for grants and loans from the site readiness fund, the public project revolving fund and other potential funding sources.

C. “**Committee**” means the strategic economic development site advisory committee created to recommend approval or disapproval of applications for grants and loans from the site readiness fund, the public project revolving fund and other potential funding sources.

D. “**Department**” is the economic development department.

E. “**Economic development site**” means a site for proposed economic development that promotes economic activity and job creation based on criteria developed by the department, but excludes general housing development, affordable housing, lands with known environmental contaminations, and other criteria as may be determined by the department that do not provide economic base job development opportunities.

F. “**Private partner**” means an individual, a foreign or domestic corporation, a general partnership, a limited liability company, a limited partnership, a joint venture, a business trust, a public benefit corporation, a nonprofit entity or other private business entity or a combination thereof.

G. “**Public partner**” means the state and the state’s branches, agencies, departments, boards, instrumentalities or institutions, public improvement district, tax increment development district, and all political subdivisions of the state and their agencies, instrumentalities and institutions, including a department, an institution of higher education, a board or a commission, and includes Indian nations, tribes and pueblos.

H. “**Public project revolving fund**” means the fund created in and administered by the New Mexico finance authority pursuant to Section 6-21-6, NMSA 1978, as the same may be amended and supplemented.

I. “**Secretary**” means the secretary of economic development.

J. “**Site characterization study**” means the study of proposed economic development sites conducted pursuant to the provisions of Subsection C of Section 6-25B-3, NMSA 1978, to determine the suitability of such sites for certification as a strategic economic development site.

K. “**Site pre-development project**” means a designated strategic economic development site project that will enhance the readiness of the strategic economic development site, and may include: (1) surveying, engineering, planning and architectural work required in advance of construction on site development and building construction; (2) environmental assessments and remediation; (3) public infrastructure improvements necessary prior to the start of site development and building construction, including roads and utilities; (4) site preparation, including landscaping and drainage improvements; and (5) government permitting.

L. “**Site readiness fund**” means the fund created in the state treasury by Section 6-25B-7, NMSA 1978 and consists of appropriations, gifts, grants, donations, income from investment of the fund, payments of principal and interest on loans made from the fund and any other money distributed or otherwise allocation to the fund.

M. “**Strategic Economic Development Site**” means a site designated as a strategic economic development site by the secretary, upon the review and recommendation of a site characterization study by the strategic economic development site advisory committee.

[2.95.1.7 NMAC - N, xx/xx/2025]

2.95.1.8 PRE-APPLICATION AND APPLICATION PROCESS:

A. Prior to initiating the preparation of an application, a public or private partner is encouraged to schedule a “pre-application conference” to discuss the proposed site with department staff, the secretary, and [], as well as consultants and/or professionals that the department may propose. The secretary may require a pre-application conference as needed, at his/her sole discretion. The purpose of this conference is to [allow the applicant and department staff to discuss areas of strength and opportunities of the application in order to optimize the application review process].

B. Applications must be submitted at least [eight (8)] business days prior to the committee’s upcoming meeting to be considered during the upcoming meeting.

C. The application review process commences when an applicant files a completed application with the department. The committee shall endeavor to review and evaluate each completed application within [ninety (90)] days of receipt to allow the committee, department staff, and the secretary to perform a thorough review. The chair may call a special meeting of the committee to expedite an application as needed, [or at the department’s request].

[2.95.1.8 NMAC - N, xx/xx/2025]

2.95.1.9 REVIEW AND APPROVAL PROCESS:

A. The committee shall review applications for site characterization studies and for grants or loans from the site readiness fund, and make recommendations to the secretary.

B. Upon the recommendation of the committee, the secretary shall:

- (1) determine whether further information is needed to make a final decision; or
- (2) determine whether the recommendation of the committee should be accepted.

C. All determinations by the secretary shall be considered final.

[12.13.1.9 NMAC - N, xx/xx/2026]

2.95.1.10 ELIGIBILITY AND PRIORITIZATION FOR STRATEGIC ECONOMIC

DEVELOPMENT SITE PROPOSALS: The committee will develop and consider a variety of factors in reviewing and evaluating strategic economic development site proposals to determine which proposals to recommend to the secretary as a strategic economic development site qualified to receive a grant or loan from the site readiness fund or whether to recommend funding from the public project revolving fund or other available funding source. The committee shall establish policies for prioritization of strategic economic development sites.

[2.95.1.10 NMAC - N, xx/xx/2025]

2.95.1.11 SITE CHARACTERIZATION STUDIES OF PROPOSED STRATEGIC ECONOMIC DEVELOPMENT SITES, CONTRACTS:

A. The secretary will accept for consideration proposals for site characterization studies of proposed strategic economic development sites to determine the suitability of such sites for certification as a strategic economic development site.

B. If the secretary determines that a proposed site is appropriate for a site characterization study, the department and a public partner or a private partner may enter into a contract to determine the suitability of proposed economic development sites for certification as a strategic economic development site. The contract to determine suitability of a proposed economic development site shall define the roles and responsibilities of the department and the public partner or private partner, provide clawback or recapture provisions determined by the department, if applicable, that protect the public investment in the event of a default on the contract; and assess the suitability of a proposed economic development site for development by a public partner or private partner, taking into consideration those characteristics set forth in policies approved by the department and consistent with the act.

C. The department will monitor the terms of the contract and enforce or cause to be enforced all terms and conditions thereof. In the event of default under a contract to determine suitability of proposed economic development sites, the department may enforce its rights by suit or mandamus and may utilize all other available remedies under state and applicable federal law.

D. The department shall review contracts to determine suitability of proposed economic development sites from time to time and determine whether the use of site readiness funds is a prudent expenditure of public funds and report to the legislature annually on that determination.

[2.95.1.11 NMAC - N, xx/xx/2025]

2.95.1.12 SITE CHARACTERIZATION STUDIES OF PROPOSED STRATEGIC ECONOMIC

DEVELOPMENT SITES, REVIEW AND APPROVAL PROCESS:

- A.** The committee shall review site characterization studies and recommend the designation of proposed strategic economic development sites for consideration by the department.
- B.** The committee will complete an initial evaluation of the site characterization study promptly upon receipt. The committee may rely on the advice of other state agencies and county and local governments on technical issues relevant to the committee's consideration of proposed strategic economic development sites and applications for grants and loans from the site readiness fund. The committee will make a recommendation to the department on each site characterization study.
- C.** Upon the recommendation of the committee, the secretary shall:
 - (1)** determine whether there needs to be further study of the characteristics of proposed economic development sites; or
 - (2)** determine whether the proposed economic development site should be designated as a strategic economic development site.

[2.95.1.12 NMAC - N, xx/xx/2025]

2.95.1.13 STRATEGIC ECONOMIC DEVELOPMENT SITE PRE-DEVELOPMENT PROJECTS, REVIEW, PRIORITIZATION AND APPROVAL PROCESS:

- A.** Upon designation as a strategic economic development site, the secretary may solicit proposals from public partners and private partners for site pre-development projects that will enhance the readiness of the strategic economic development site. Site pre-development projects may include:
 - (1)** surveying, engineering, planning and architectural work required in advance of construction on site development and building construction;
 - (2)** environmental assessments and remediation;
 - (3)** public infrastructure improvements necessary prior to the start of site development and building constructions, including roads and utilities;
 - (4)** site preparation, including landscaping and drainage improvements; and
 - (5)** governmental permitting.
- B.** The committee shall review each complete and compliant pre-development project application from a public or private partner associated with a strategic economic development site and provide a recommendation to the secretary regarding potential funding through the site readiness fund or whether the application should be recommended for funding from the public project revolving fund or other available funding sources.
- C.** Following the committee review, the secretary shall determine which proposed site pre-development projects will receive funding from the site readiness fund, at what amount, and for what purposes.

[2.95.1.13 NMAC - N, xx/xx/2025]

2.95.1.14 ADMINISTRATION OF THE SITE READINESS FUND:

- A.** Pursuant to Section 6-25B-7, NMSA 1978, the site readiness fund is created in the state treasury and shall be administered by the department to provide grants and loans for financing site pre-development projects.
- B.** Money from repayments of loans made by the department shall be deposited in the site readiness fund. The site readiness fund shall also consist of any other money appropriated, distributed or otherwise allocated to the site readiness fund for the purposes of the act.
- C.** Money in the fund shall be used for the purpose of carrying out the provisions of the act, including site characterization studies of proposed economic development sites and site preparations of designated strategic economic development sites.
- D.** Disbursements from the site readiness fund shall be made by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of the department or the secretary's authorized representative.
- E.** The department may establish procedures to administer the site readiness fund and to recover from the site readiness fund administrative and reimbursable costs incurred by the department for originating grants and loans, subject to the legislative appropriation process.

[2.95.1.14 NMAC - N, xx/xx/2025]

2.95.1.15 REPORTING: Beginning October 1, 2026 and each October 1 thereafter, the secretary shall provide a report to the governor, the legislative finance committee and the appropriate interim legislative committees regarding:

- A. The number and location of proposed economic development sites that have been approved for site characterization studies;
- B. The number and location of strategic economic development sites that have been approved by the secretary;
- C. The number and location of site pre-development projects that have been approved by the secretary, including those that have been approved for funding, in whole or in part, through grants and loans from the site readiness fund, the public project revolving fund or other funding resources;
- D. The status of the site readiness fund; and
- E. Recommended changes to the act.

[2.95.1.15 NMAC - N, xx/xx/2025]

2.95.1.16 AMENDMENT OF RULES: This rule may be amended or repealed at any time by the department.

[2.95.1.16 NMAC - N, xx/xx/2025]

HISTORY OF 2.95.1 NMAC: [RESERVED]