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FISCAL IMPACT REPORT

SPONSOR	Senate Tax, Business and Transportation Committee	**LAST UPDATED**	3/10/2025
		ORIGINAL DATE	2/17/2025
SHORT TITLE	Strategic Economic Development Site Readiness	**BILL NUMBER**	CS/Senate Bill 169/STBTCS/aSFC /aSFl#1
		ANALYST	Rodriguez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Site Readiness Fund	No fiscal impact	No fiscal impact	At least $10,000.0	At least $10,000.0	Recurring	General Fund
EDD	No fiscal impact	No fiscal impact	At least $138.6	At least $138.6	Recurring	Other state funds
Total	No fiscal impact	No fiscal impact	At least $10,138.6	At least $10,138.6	Recurring	General Fund and Other State Funds

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Relates to an appropriation in the General Appropriation Act
Is a companion to Senate Bill 170
Relates to House Bill(s) 13, 19 and 135 and Senate Bill 233

Sources of Information

LFC Files

Agency Analysis Received From
New Mexico Finance Authority (NMFA)
New Mexico Office of Attorney General (NMAG)
Economic Development Department (EDD)
Public Regulation Commission (PRC)
Energy, Minerals and Natural Resources Department (EMNRD)
New Mexico Municipal League (NMML)

Agency Analysis was Solicited but Not Received From
Department of Transportation (DOT)

SUMMARY

Synopsis of Senate Floor Amendment #1 to Senate Bill 169

The Senate Floor amendment to Senate Bill 169 (SB169) adds Indian nations, tribes, and pueblos into the definition for "public partner".

Synopsis of SFC Amendment to Senate Bill 169

The Senate Finance Committee amendment to Senate Bill 169 strikes the appropriation.

Synopsis of STBTC Substitute of Senate Bill 169

The Senate Tax, Business and Transportation Committee substitute for Senate Bill 169 appropriates $24 million from the general fund for the site readiness fund. SB169 creates the Strategic Economic Development Site Readiness Act and the site readiness fund for the purpose of identifying, assessing, and preparing sites for business development. SB169 also creates the Strategic Economic Development Site Advisory Committee to advise the Economic Development Department (EDD) in selecting sites and awarding funding.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

SB169 creates a nonreverting fund. Although SB169 does not specify future appropriations, establishing a new grant and loan program could create an expectation the program will continue in future fiscal years; therefore, this cost is assumed to be recurring. LFC's analysis considers similar infrastructure programs, such as the Local Economic Development Act (LEDA), and recent special appropriations to LEDA as a barometer for potential future nonrecurring appropriations to the site readiness fund.

The analysis considers per diem costs for the five public members for quarterly meetings and technical support for EDD to administer the fund and comply with the act. Similarly, the analysis also considers EDD requiring at least 1 FTE to manage the fund, work with the advisory committee, and work with contractors to manage pre-development projects and site characterization studies. SB169 allows EDD, subject to the legislative appropriation process, to use the site readiness fund for administrative and reimbursable costs incurred by the department.

SIGNIFICANT ISSUES

Lack of Criteria and Goals. The Government Finance Officers Association states that economic incentive policies should include the following elements:

1. Goals and measurable objectives,
2. Performance standards and claw back provisions for not meeting those standards,
3. Processes for monitoring compliance, and
4. A clearly defined process to evaluate proposals.

As is proposed, the bill tasks the advisory committee with reviewing and recommending sites to EDD. The bill provides broad discretion to the secretary, after consideration of the recommendations, to conduct site characterization studies, approve or deny certification, and fund pre-development projects. While the bill does specify that the advisory committee is responsible for recommending an application process and criteria for approval, there are no clearly defined goals or measurable objectives for strategic economic development sites or pre-development projects. It is not clear whether the sites must be aligned with the agency's economic development plans or key industries. The bill does not clearly define how the use of public funds must result in public benefits, such as new jobs or tax revenue increases. Without clearly defined success criteria, decisions could be influenced by political biases rather than economic viability.

Other programs, such as New York's shovel-ready grant program or North Carolina's select site readiness program, provide grant for pre-development activities that attract eligible industries, such as advanced manufacturing, and place priority for sites that are best for target industries. SB169 could also clearly state that priority and preference will be given to projects that promote the expansion and long-term economic viability of target industries, attract jobs, and are tied to state's strategic economic plans.

Reporting and Evaluation. The bill has limited reporting requirements. The bill requires the secretary to annually report the following:

- Sites approved for site characterization studies,
- Sites approved as strategic economic development sites,
- Approved pre-development projects,
- Status of the fund, and
- Recommended changes to the act.

The bill does not require:

- Site occupancy rate,
- Total incentives and funding allocated to a site,
- Return on investment,
- Permitting and construction timelines,
- New business establishments and jobs created as a result of funding, and
- Business expansion and retention.

The bill does not specify a short- or long-term review mechanism to track whether designated sites and relevant pre-development projects successfully attract businesses. Without additional reporting metrics, it will be unclear whether pre-development activities had an economic impact and were utilized by a business or businesses. Regular evaluation can ensure the state is allocating limited resources to projects and investment that have a return on investment and understand the impacts of potential stranded investments.

Anti-Donation Clause and Safeguards. The Anti-Donation Clause prohibits the state from using public funds to benefit a private organization if the state does not receive anything of value in return. The Anti-Donation Clause allows the state to provide land, buildings, or infrastructure for facilities to support new or expanding businesses that create new job opportunities. SB169 allows the secretary to solicit proposals from both public partners and private partners for pre-development projects and does not explicitly require public-private partnerships to be eligible for funding. While initially unclear, projects funded pursuant to SB169 could present possible violations to anti-donation. A possible violation would be if public funds were used to improve privately owned land, and such improvements did not result in economic opportunities.

The Anti-Donation Clause also specifies that the granting legislation must include adequate safeguards to protect public money. SB169 includes some safeguards, such as establishing an advisory committee to make recommendations, only allowing designated sites for pre-development funding, and annual reporting requirements on use of funds (see issues on reporting in “Reporting and Evaluation”). However, the bill does not explicitly say that projects must result in public benefits. Also, because of the nature of site readiness, there are no possible clawback provisions for the state to recover costs if a site is never utilized. It is unclear if the bill includes adequate safeguards.

Oregon’s program incentives local governments to initially fund improvements to the project site and receive reimbursement from a share of state income tax from qualifying jobs created on the site. While it is commonly understood that many local governments in New Mexico lack the financial resources to independently fund improvements, the bill should consider similar language for local governments that do have sufficient funding.

Capping Grants and Loans. SB169 does not cap grants or loans. As such, all $24 million could be used on a single site or a couple sites. Other similar programs, such as New York’s, cap grants at $500 thousand for pre-development site planning.

Other Infrastructure Programs. New Mexico offers several infrastructure-related programs for the purpose of economic development. The largest, the Local Economic Development Act (LEDA), provides financial assistance to businesses seeking to expand or relocate in New Mexico. It facilitates the acquisition and improvement of land, buildings, and infrastructure, as well as public works essential for business operations. As opposed to site readiness, LEDA is awarded to businesses who have already planned on moving or expanding in New Mexico. Additionally, the New Mexico Finance Authority (NMFA) administers the Opportunity Enterprise Program, which provide low-cost financing for-profit and nonprofit entities for the construction or renovation of commercial properties.

Public Utilities. SB169 includes public infrastructure improvements such as roads and utilities as possible site pre-development projects, which implies that electric and gas utility infrastructure improvements will be eligible for funding through the site readiness fund. As noted in “Conflict, Duplication, Companionship, Relationship”, SB169 is a companion to Senate Bill 170 (SB170), which creates a process for utilities that are interested in pre-developing infrastructure to have projects approved by the Public Regulation Commission (PRC) and apply for low-interest loans through the public project revolving fund. The two processes outlined in SB170 and SB169 coincide to allow public utilities to pre-develop infrastructure. As noted by NMFA, public utilities can only develop infrastructure when a customer signs an agreement. After an agreement, the necessary infrastructure improvements may take several years. NMFA argues SB169 and SB170 could reduce the time between a site being chosen for development and the actual installation of the necessary infrastructure. However, there is a risk associated with pre-development of public utility infrastructure to existing ratepayers. As utilities are allowed to recover costs from ratepayers, if the anticipated customer base from a new project does not materialize, the associated costs still must be paid by customers, which could result in higher rates by existing customers.

ADMINISTRATIVE IMPLICATIONS

EDD notes SB169 would require the agency to hire contractors to provide specialized technical support for areas where existing staff cannot support the program, as allowed in the bill.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB169 is a companion bill to SB170, which allows site readiness projects undertaken by public utilities and rural electric cooperatives to apply to the New Mexico Finance Authority's public project revolving fund for low-cost loans to construct or improve electric utilities and infrastructure.

SB169 is related to an appropriation in the House version of the General Appropriation Act (GAA) for EDD. As proposed, the GAA includes $24 million for site characterization and predevelopment assessment contingent on enactment of SB169 or similar legislation.

SB169 is also related to House Bill 13, which requires electric public utilities to develop and file detailed distribution system plans with PRC, which would allow utilities to proactively plan, engineer, and upgrade their electrical distribution system to ensure customers can connect without delays and meet decarbonization standards.

In addition, SB169 is related to House Bill 19, which creates the Trade Ports Development Act, enabling the state and its political subdivisions ("public partners") to enter into public-private partnership agreements to help finance and work on trade port projects, and to Senate Bill 223 and House Bill 135, which add housing studies as a requirement to qualify for LEDA funds. The STBTC substitute for SB169 adds housing availability as a characteristic to be considered in site characterization studies.

OTHER SUBSTANTIVE ISSUES

Strategic Economic Development Sites and Pre-Development. The intent of this bill is to increase the number of sites ready for business development and to reduce the amount of time businesses must wait for their sites to be ready for building. On approval of a site, the secretary of the economic development may solicit proposals for site pre-development projects, which include surveying, planning, environmental assessment, public infrastructure improvements, landscaping, and governmental permitting. The New Mexico Finance Authority (NMFA) and EDD argue that creating site ready projects is likely to result in significant capital investment, tax revenues, and jobs.

Site Readiness. During the 2024 legislative session, the Legislature appropriated $500 thousand to EDD for site readiness. EDD evaluated 28 publicly owned sites for industrial opportunities, assessed their existing infrastructure and capabilities, and recommended steps to improve site readiness. The report provided a gap and impact improvement analysis on each site.

Impact on Local Government. The committee substitute directs the advisory committee to consult with county and local governments on technical issues related to a proposed site. The New Mexico Municipal League raised concerns over the original version of the bill, arguing that the bill could increase financial burdens on municipalities and public utilities to accommodate plans and infrastructure for state-designate site development projects, especially if local governments are not involved in the initial site selection process and site development.

AMENDMENTS

The bill could benefit from clear success metrics for site certification, reducing subjectivity in decision-making. The bill could also benefit from the incorporation of safeguards against stranded assets by requiring developers to commit before significant infrastructure investment is made.

JR/rl/SL2/hg/sgs/hg/sgs/rl