

SENATE BILL 357

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Carrie Hamblen

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO UTILITIES; CREATING THE ESSENTIAL SERVICES DEVELOPMENT ACT TO ALLOW STATE SUPPORT FOR INFRASTRUCTURE PROJECTS THAT ALLOW ACCESS TO INTERNET, ENERGY, WATER AND WASTEWATER SERVICES PRIMARILY FOR RESIDENTIAL PURPOSES.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Essential Services Development Act".

.229009.1AIC March 1, 2025 (8:31am)

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SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the

Essential Services Development Act:

A. "broadband telecommunications network facilities" means the electronics, equipment, transmission facilities, fiber-optic cables and any other item directly related to a system capable of transmission of internet protocol or other formatted data at current federal communications commission baseline speed standard, all of which will be owned and used by a provider of internet access services;

B. "division" means the local government division of the department of finance and administration;

C. "essential services project" or "project" means an infrastructure project that allows access to internet, energy, water and wastewater services primarily for residential purposes;

D. "governing body" means the city council, city commission or board of trustees of a municipality or the board of county commissioners of a county;

E. "local government" means a municipality or county;

F. "municipality" means an incorporated city, town or village;

G. "person" means an individual, corporation, association, partnership or other legal entity;

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H. "public support" means the provision of assistance by the state to provide direct or indirect assistance to support an essential services project, including for the provision of:

(1) land, buildings or other infrastructure by purchase, lease, grant, construction, reconstruction, improvement or other acquisition or conveyance;

(2) the placement of new broadband telecommunications network facilities; provided that the facilities shall not serve a public facility or location that already meets federal communications commission baseline speed standards;

(3) rights-of-way infrastructure, including trenching and conduit, for the placement of new broadband telecommunications network facilities;

(4) public works improvements essential to the location or expansion of a qualifying entity;

(5) payments for professional services contracts necessary to implement an essential services plan or provide public support for an essential services project;

(6) direct loans or grants for land, buildings or infrastructure;

(7) loan guarantees securing the cost of land, buildings or infrastructure; and

(8) grants for public works infrastructure

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improvements; and

I. "regional government" means any combination of municipalities and counties that enter into a joint powers agreement to provide public support for economic development projects pursuant to a plan adopted by all parties to the joint powers agreement.

SECTION 3. [NEW MATERIAL] PUBLIC SUPPORT SHALL BE SPECIFICALLY AUTHORIZED BY LAW STBTC→~~ONLY THE STATE MAY PROVIDE PUBLIC SUPPORT~~←STBTC .--

STBTC→A.←STBTC Public support for an essential services project shall be specifically authorized by law. The law shall include provisions to safeguard public money and other resources, including allowing the division to recover money and other resources from a local or regional government if the essential services project is not completed to the satisfaction of the division or otherwise does not meet the requirements provided in the Essential Services Development Act.

STBTC→B.←~~A local government is not authorized to provide public support for essential services projects pursuant to Subsection H of Section 14 of Article 9 of the constitution of New Mexico.~~←STBTC

SECTION 4. [NEW MATERIAL] TECHNICAL ASSISTANCE FROM THE DIVISION.--At the request of a local or regional government, the division shall provide technical assistance in the

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development of an essential services plan or project.

**SECTION 5. [NEW MATERIAL] ESSENTIAL SERVICES DEVELOPMENT PLAN--CONTENTS--PUBLICATION.--**

A. Prior to receiving public support, a local or regional government seeking to pursue an essential services project shall adopt a development plan to implement the project. Any plan or plan amendment shall be adopted by ordinance of the governing body of the local government or each local government of a regional government proposing the plan or plan amendment.

B. The plan or the ordinance adopting the plan shall:

(1) describe the local or regional government's essential services development goals or strategies;

(2) describe the types of essential services projects that will qualify for public support under the plan;

(3) describe the criteria to be used to determine eligibility for public support for an essential services project;

(4) describe the manner in which a person or entity may submit an application for public support pursuant to Section 7 of the Essential Services Development Act;

(5) describe the process the local or regional government will use to verify the information submitted on an

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application for public support;

(6) detail the need for the essential services projects contemplated in the plan and the benefit that the projects will bring to the local or regional government;

(7) describe the safeguards of public resources that will be ensured; and

(8) if a regional government, describe the joint powers agreement, including whether it can be terminated and, if so, how the contractual or other obligations, risks and any property will be assigned or divided among the local governments that are party to the agreement.

C. The plan shall be made available to the residents within the local or regional government area.

**SECTION 6. [NEW MATERIAL] REGIONAL PLANS--JOINT POWERS AGREEMENT--REGIONAL GOVERNMENT.--**

A. Two or more municipalities, two or more counties or one or more municipalities and counties may enter into a joint powers agreement pursuant to the Joint Powers Agreements Act to develop a regional essential services development plan, which may consist of existing local plans. The parties to the agreement shall be deemed a regional government for the purposes of the Essential Services Development Act.

B. The joint powers agreement shall provide for appointment of a project manager who shall be responsible for the management of projects and money from public support. The

agreement may provide for a regional body consisting of representatives from the governing bodies of each local government that is a party to the agreement and may determine the powers and duties of that body in implementing the regional government's plan and providing public support for essential services projects.

SECTION 7. [NEW MATERIAL] APPLICATIONS FOR PUBLIC SUPPORT.--

A. After the adoption of an essential services development plan by a local or regional government, the local or regional government may begin accepting applications for public support of the local or regional government's essential services project. The application shall be on a form and in a manner as prescribed by the local or regional government.

B. The local or regional government shall review each application and any project determined to be eligible for public support shall be approved by ordinance.

C. The local or regional government's evaluation of an application shall be based on the provisions of the essential services development plan and any other information the local or regional government believes is necessary for a full review of the application.

D. The local or regional government may negotiate with an applicant on the type or amount of public support to be provided or on the scope of the essential services project.

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SECTION 8. [NEW MATERIAL] DEPOSIT PUBLIC SUPPORT MONEY IN SPECIAL FUND.--

A. A regional or local government that receives money from public support for an essential services project shall create a special fund into which the money from the public support shall be deposited and shall be expended only for essential services project purposes. Separate accounts shall be established for each essential services project.

B. In the case of a regional government, money from public support may be expended only as provided by the regional government's essential services development plan and joint powers agreement.

SECTION 9. [NEW MATERIAL] PLAN AND PROJECT TERMINATION-- DEPOSIT OF UNEXPENDED FUNDS IN GENERAL FUND.--

A. At any time after approval of an essential services development plan, the governing body of the local government or the governing body of each local government in a regional government may enact an ordinance terminating the plan and dissolving or terminating any public support for essential services projects.

B. Any unexpended and unencumbered balance remaining in a local or regional government's special fund or account upon repeal of an essential services plan and termination of public support for or dissolution of a project shall be returned to the state treasurer, who shall deposit the

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returned amount in the general fund.

**SECTION 10. [NEW MATERIAL] STATE PARTICIPATION IN  
ESSENTIAL SERVICES PROJECTS--PROJECT PARTICIPATION AGREEMENT--  
DUTIES AND REQUIREMENTS.--**

A. If public support is provided for an essential services project, the division shall enter into a project participation agreement with the local or regional government pursuant to this section.

B. A project participation agreement shall set out, at a minimum:

(1) a description of the public support to be provided for the essential services project;

(2) a schedule for project development and completion, including measurable goals and time limits for those goals;

(3) provisions for performance review and actions to be taken upon a determination that project performance is unsatisfactory; and

(4) a description of how the local or regional government will safeguard public money or other resources provided as public support for the essential services project.