

1 SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR
2 SENATE BILL 425

3 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

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10 AN ACT

11 RELATING TO ECONOMIC DEVELOPMENT; ENACTING THE ENHANCED
12 ENTERPRISE ZONE ACT TO PROVIDE TAX COLLECTION ABATEMENT FOR THE
13 DEVELOPMENT OR IMPROVEMENT OF PROPERTY WITHIN DESIGNATED
14 ECONOMICALLY UNDERPERFORMING AREAS; PROVIDING POWERS AND
15 DUTIES; ESTABLISHING REQUIREMENTS FOR PARTICIPATION; PROVIDING
16 A DELAYED REPEAL.

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

19 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
20 cited as the "Enhanced Enterprise Zone Act".

21 SECTION 2. [NEW MATERIAL] PURPOSE.--The legislature finds
22 that there currently exist in this state rural and urban areas
23 that are economically underperforming in their communities, are
24 blighted or are in economic distress and may need assistance to
25 overcome conditions of unemployment, underemployment, net out-

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1 migration of the population, chronic economic distress,
2 deterioration of business districts or other detrimental
3 economic conditions. The legislature finds that enhanced
4 enterprise zones, by providing qualified participants with
5 property tax relief at the state and local levels, may provide
6 incentives for the development and improvement of property and
7 promote community economic development by supporting job
8 creation and employment training, revenue-producing enhanced
9 enterprises, education and other community services in
10 economically depressed or economically underperforming areas.
11 The legislature declares that to encourage private companies to
12 rehabilitate, expand and improve real property and structures
13 in economically depressed areas, enhanced enterprise zones may
14 be established.

15 SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the
16 Enhanced Enterprise Zone Act:

17 A. "abatement period" means that term of years
18 during which increased property taxes derived from development
19 or redevelopment shall be assessed but not imposed;

20 B. "department" means the economic development
21 department;

22 C. "economically depressed" or "economically
23 underperforming" means an area in which a substantial number of
24 parcels are determined by a local government to be dilapidated,
25 unsanitary, unsafe, in need of economic revitalization or

1 underutilized;

2 D. "enhanced enterprise zone" or "zone" means an
3 urban or rural geographic area with fixed boundaries designated
4 as an enhanced enterprise zone by a local government pursuant
5 to the Enhanced Enterprise Zone Act;

6 E. "jurisdiction" means a geographic area over
7 which a local government has authority and control as provided
8 by the constitution of New Mexico or by statute;

9 F. "local government" means a county, a
10 municipality or an Indian nation, tribe or pueblo; the
11 governing body of a county, a municipality or an Indian nation,
12 tribe or pueblo; or an entity designated as a governing body in
13 a joint powers agreement entered into between or among a
14 county, a municipality or an Indian nation, tribe or pueblo for
15 the purpose of creating and administering an enhanced
16 enterprise zone that encompasses more than one jurisdiction;

17 G. "municipality" means an incorporated city, town
18 or village, whether incorporated under general act, special act
19 or special charter;

20 H. "participant" means a person, including a
21 business, resident, landowner, lessor, lessee with the lessor's
22 prior written approval or enterprise within the geographic area
23 of an enhanced enterprise zone that has been approved by a
24 local government for inclusion in the benefits of the enhanced
25 enterprise zone; and

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1 I. "revenue-producing enhanced enterprise" means
2 manufacturing activities; agricultural activities; cultural and
3 creative industries and activities; transportation activities;
4 residential property; public warehousing and storage
5 activities; airports and air transportation services; railyard
6 and rail transportation services; trucking and distribution
7 activities; wholesale trade activities; retail activities;
8 insurance carrier activities; research and development
9 activities; farm implement and heavy equipment dealer
10 activities; employment agency activities; computer programming,
11 data processing and other computer-related activities; health
12 services; office activities; any combination of the foregoing
13 activities; or other job-creating activities as approved by a
14 local government.

15 SECTION 4. [NEW MATERIAL] ESTABLISHMENT OF ENHANCED
16 ENTERPRISE ZONE--FINDINGS--PUBLIC HEARING--COUNTY
17 RATIFICATION--LANDOWNER PETITION.--

18 A. A local government may designate an area as an
19 enhanced enterprise zone upon a written finding that the area,
20 as compared with other areas within a jurisdiction, is
21 economically depressed or is economically underperforming, has
22 a higher unemployment rate, has a higher rate of poverty or
23 other distress factors unique to the area or has a greater
24 potential for economic revitalization. Enhanced enterprise
25 zones may include an area previously or currently designated as

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1 a metropolitan redevelopment area or district.

2 B. All enhanced enterprise zones shall be
3 established by local ordinance. The local ordinance shall
4 include an exact description of the boundaries of the proposed
5 zone, a statement of the zone's purpose and goals and the date
6 on which the designation of the zone will expire.

7 C. Prior to the enactment of an ordinance
8 establishing a zone, the local government shall hold a public
9 hearing for the purpose of obtaining the opinion and
10 suggestions of those persons who will be affected by such a
11 designation. Notice of a public hearing shall be given to all
12 residents and property owners in the proposed zone and shall be
13 published in a newspaper of general circulation at least thirty
14 days prior to the date of the hearing. The notice shall state
15 the time, location, date and purpose of the hearing.

16 D. Enhanced enterprise zones within a municipality
17 shall be ratified by the board of county commissioners of the
18 county in which the zone to be created is located. An enhanced
19 enterprise zone within a municipality may be rejected by a
20 county only for good cause as reflected by the hearing record
21 of the county commission. The abatement of increased property
22 taxes from the improvements in the district shall not be the
23 sole reason for the denial of the enhanced enterprise zone
24 designation by the county.

25 E. Property owners may petition the local

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1 government to create an enhanced enterprise zone. The petition
2 shall be signed by a majority of not less than fifty-one
3 percent of the total landowners or fifty-one percent of the
4 real property owners in the geographic area proposed for
5 designation as an enhanced enterprise zone. A lessee of
6 property may also request inclusion in an enhanced enterprise
7 zone with the prior written permission of the lessor.

8 F. An owner of property contiguous to the proposed
9 enhanced enterprise zone may petition for inclusion if the
10 property owner satisfies the criteria for participation. In
11 the discretion of a local government, real property may be
12 considered contiguous if physical contiguity is interrupted by
13 a public thoroughfare, railroad or other public use.

14 G. Subsequent to the designation of a geographic
15 area as an enhanced enterprise zone, a property owner may
16 petition to become a participant in the proposed zone by
17 submitting a development or improvement plan to the local
18 government in accordance with Section 9 of the Enhanced
19 Enterprise Zone Act.

20 SECTION 5. [NEW MATERIAL] ENHANCED ENTERPRISE ZONE
21 BOARD--POWERS AND DUTIES--MULTIPLE JURISDICTIONS.--

22 A. A local government establishing an enhanced
23 enterprise zone may create an enhanced enterprise zone board,
24 with powers and duties as may be established by the local
25 government. If a metropolitan redevelopment district has been

1 established in a jurisdiction, the local government may
 2 designate the metropolitan redevelopment board also to act as
 3 the enhanced enterprise zone board.

4 B. If a proposed enhanced enterprise zone is
 5 located in multiple jurisdictions, each affected local
 6 government shall approve the establishment of the enhanced
 7 enterprise zone within its jurisdiction. Denial of approval of
 8 the proposed enhanced enterprise zone by one local government
 9 shall not affect the establishment of the zone within the
 10 jurisdiction of any other local government.

11 SECTION 6. [NEW MATERIAL] ENHANCED ENTERPRISE ZONE
 12 EVALUATIONS--REPORTING REQUIREMENTS.--

13 A. A local government that has designated an area
 14 as an enhanced enterprise zone shall, no more than five years
 15 after the designation was made, reevaluate the area to
 16 determine whether the enhanced enterprise zone has made
 17 substantial progress in the accomplishment of its stated goals.
 18 After such review, the local government may take any action
 19 necessary to amend the enhanced enterprise zone criteria or
 20 purpose, including repeal of the ordinance that established the
 21 enhanced enterprise zone.

22 B. A local government shall report the
 23 establishment of an enhanced enterprise zone and all
 24 evaluations of an enhanced enterprise zone to the department by
 25 August 31 each year for the previous fiscal year ended June 30.

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1 An initial report shall include a geographic description of the
2 enhanced enterprise zone, a list of the initial participants
3 and the proposed uses to be developed or improved by each
4 participant in the zone. Reports in subsequent years shall
5 include updates on the progress of the development or
6 improvement by each participant in the enhanced enterprise
7 zone, any resulting increased economic activity of the
8 participants in the zone and any further information about the
9 zone as the department may request or require.

10 SECTION 7. [NEW MATERIAL] ECONOMIC DEVELOPMENT DEPARTMENT
11 ASSISTANCE.--The department may assist any local government
12 upon request with the establishment, management or evaluation
13 of an enhanced enterprise zone or any development or
14 improvement needs of participants in the zone.

15 SECTION 8. [NEW MATERIAL] ABATEMENT OF COLLECTION OF
16 INCREASED PROPERTY TAXES.--

17 A. A participant shall be afforded a property tax
18 collection abatement. The abatement shall provide that
19 property taxes due subsequent to a person's acceptance as a
20 participant in an enhanced enterprise zone be equal to the
21 amount due prior to the creation of the zone, except for new
22 mill levies that may be imported or adjustments to existing
23 mill levies for yield control. The county assessor shall
24 assess properties in the enhanced enterprise zone during the
25 abatement period.

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1 B. Collection of increased property tax value shall
 2 be abated for a period not to exceed ten years. At the end of
 3 the abatement period, the abatement on collection of taxes at
 4 the increased valuation amount shall be reduced by
 5 approximately one-third per year such that three years
 6 following the end of the abatement period, the full assessed
 7 real or personal property tax shall be due at the full assessed
 8 value.

9 C. Nothing in this section shall be construed to
 10 affect the distribution of property tax revenues to the various
 11 state and local entities as provided by law.

12 D. If a property in an enhanced enterprise zone
 13 changes ownership during the abatement period, the county
 14 assessor may reappraise and re-assess the property pursuant to
 15 the county's usual tax assessment practices and procedures.
 16 The abatement of the collection of property taxes shall apply
 17 only to a pre-sale assessed value for the remainder of the
 18 abatement period.

19 E. A participant shall only lose the benefits of
 20 abatement provided in this section upon the expiration of the
 21 enhanced enterprise zone or as provided by Section 10 of the
 22 Enhanced Enterprise Zone Act.

23 **SECTION 9. [NEW MATERIAL] PARTICIPANTS--REQUIRED**
 24 **SUBMISSIONS--DEVELOPMENT AND IMPROVEMENT PLANS.--**

25 A. No person shall be accepted as a participant in

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1 an enhanced enterprise zone without submission of a development
2 or improvement plan that includes, at a minimum:

3 (1) the person's name, address and property
4 interest in the zone;

5 (2) a complete and detailed description of the
6 person's proposed participation, including a description of all
7 proposed developments or improvements to the person's property;

8 (3) a marketing plan, including how the
9 proposed developments or improvements will create jobs, promote
10 industry or trade or enhance economic activity;

11 (4) a schedule for initiation and completion
12 of the developments or improvements and the date that the
13 developments or improvements will be completed;

14 (5) the estimated number of new jobs that will
15 be created and by when the jobs will be created; and

16 (6) other information as required by the
17 department or local government.

18 B. A local government may designate additional
19 participant criteria as warranted by the circumstances in the
20 local government's jurisdiction.

21 SECTION 10. [NEW MATERIAL] DEADLINES FOR COMPLETION--
22 CLAWBACK.--

23 A. A participant shall complete all developments or
24 improvements within eighteen months after the participant's
25 development or improvement plan is approved by the local

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1 government. The local government may grant an extension of
 2 time for good cause. An extension of no more than six months
 3 may be granted on no more than two occasions.

4 B. If a participant fails to develop or improve the
 5 participant's property within the time allotted by the local
 6 government, the participant may be removed from active enhanced
 7 enterprise zone status and all property taxes shall be due and
 8 payable at the current value, without any abatement, as
 9 determined by the county assessor.

10 SECTION 11. [NEW MATERIAL] DELAYED REPEAL--EFFECT OF
 11 DELAYED REPEAL ON EXISTING ENHANCED ENTERPRISE ZONES.--

12 A. Effective July 1, 2032, Sections 1 through 10 of
 13 this act are repealed.

14 B. Enhanced enterprise zones existing on June 30,
 15 2032 shall continue until the date scheduled for the zone's
 16 expiration as stated in the zone's enabling ordinance. No
 17 participant in an enhanced enterprise zone existing on June 30,
 18 2032 shall lose the benefits of being a participant until
 19 expiration of the zone or as provided by Section 10 of the
 20 Enhanced Enterprise Zone Act as it existed on June 30, 2032.

21 SECTION 12. EFFECTIVE DATE.--The effective date of the
 22 provisions of this act is July 1, 2017.

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