

HOUSE FLOOR SUBSTITUTE FOR  
HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 11

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

AN ACT

RELATING TO BUSINESS; CHANGING THE NAME OF THE SMALL BUSINESS  
RECOVERY ACT OF 2020 TO THE SMALL BUSINESS RECOVERY AND  
STIMULUS ACT; CHANGING CERTAIN DEFINITIONS WITHIN THE SMALL  
BUSINESS RECOVERY AND STIMULUS ACT; EXTENDING THE DEADLINE TO  
APPLY FOR A SMALL BUSINESS RECOVERY LOAN; DELAYING THE  
REVERSION OF THE SMALL BUSINESS RECOVERY LOAN FUND; CHANGING  
THE TERMS OF SMALL BUSINESS RECOVERY LOANS; PERMITTING THE  
REQUIREMENT OF A PERSONAL GUARANTEE OR COLLATERAL FOR CERTAIN  
LOANS; ALLOWING A RECIPIENT OF A PREVIOUS SMALL BUSINESS  
RECOVERY LOAN TO REFINANCE THE LOAN SUBJECT TO THE TERMS OF  
THIS ACT; CLARIFYING CONFIDENTIALITY PROVISIONS; REPEALING  
SECTION 6-32-6 NMSA 1978 (BEING LAWS 2020 (1ST S.S.), CHAPTER  
6, SECTION 6); DECLARING AN EMERGENCY.

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

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1 SECTION 1. Section 6-32-1 NMSA 1978 (being Laws 2020 (1st  
2 S.S.), Chapter 6, Section 1) is amended to read:

3 "6-32-1. SHORT TITLE.--~~[Sections 1 through 7 of this act]~~  
4 Chapter 6, Article 32 NMSA 1978 may be cited as the "Small  
5 Business Recovery and Stimulus Act [~~of 2020~~]."

6 SECTION 2. Section 6-32-2 NMSA 1978 (being Laws 2020 (1st  
7 S.S.), Chapter 6, Section 2) is amended to read:

8 "6-32-2. DEFINITIONS.--As used in the Small Business  
9 Recovery and Stimulus Act [~~of 2020~~]:

10 A. "authority" means the New Mexico finance  
11 authority;

12 ~~[B. "average adjusted monthly business expenses"~~  
13 ~~means an amount equal to the quotient of:~~

14 ~~(1) a business's total expenses for taxable~~  
15 ~~year 2019, excluding expenses deducted pursuant to Section 179~~  
16 ~~of the United States Internal Revenue Code of 1986, as that~~  
17 ~~section may be amended or renumbered, and expenses for~~  
18 ~~depreciation and bonus depreciation deducted pursuant to the~~  
19 ~~United States Internal Revenue Code of 1986, as determined from~~  
20 ~~the business's federal income tax return for taxable year 2019,~~  
21 ~~less the amount of any loan obtained by the business pursuant~~  
22 ~~to Section 1102 of the federal Coronavirus Aid, Relief, and~~  
23 ~~Economic Security Act; and~~

24 ~~(2) twelve;~~

25 G. ~~"community development financial institution"~~

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1 ~~means a legal entity operating within the state that is~~  
 2 ~~certified as a community development financial institution by~~  
 3 ~~the federal community development financial institutions fund;~~

4 ~~D. "loan servicer" means a federally insured~~  
 5 ~~depository institution or community development financial~~  
 6 ~~institution that assembles and submits the small business~~  
 7 ~~recovery loan documents to the authority;~~

8 ~~E.] B.~~ "New Mexico resident" means an individual  
 9 who is domiciled in this state during any part of the year or  
 10 an individual who is physically present in this state for one  
 11 hundred eighty-five days or more during the taxable year;

12 C. "non-employer business" means a qualifying small  
 13 business that has no paid employees;

14 ~~[F.] D.~~ "ordinary and necessary business expenses"  
 15 means all expenses, including expenses and capital expenses  
 16 incurred to operate the business in compliance with a public  
 17 health order;

18 ~~[G.] E.~~ "qualifying small business" means a  
 19 business or nonprofit corporation that:

20 (1) ~~[has closed or reduced operations]~~ can  
 21 demonstrate, as determined by the authority, that it has  
 22 sustained a substantial decline in gross revenue or a  
 23 substantial disruption to its operations due to the public  
 24 health ~~[order]~~ orders issued by the secretary of health ~~[on~~  
 25 ~~March 23, 2020]~~ and related to the coronavirus disease 2019

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1 public health emergency;

2 (2) had an annual [~~gross~~] net revenue of less  
3 than five million dollars (\$5,000,000) as determined [~~from the~~  
4 ~~business's federal income tax return for taxable year 2019;~~

5 ~~(3) during the months of April and May 2020,~~  
6 ~~experienced one of the following:~~

7 ~~(a) for a business entity other than a~~  
8 ~~nonprofit corporation, a decline in the business's monthly~~  
9 ~~gross receipts by more than thirty percent from the business's~~  
10 ~~monthly gross receipts for that month in 2019, as reported~~  
11 ~~monthly by the business to the taxation and revenue department;~~  
12 ~~or~~

13 ~~(b) for a business entity that is~~  
14 ~~organized and operated as a nonprofit corporation, a decline in~~  
15 ~~the business's monthly revenue by more than thirty percent from~~  
16 ~~the business's monthly revenue for that month in 2019, as~~  
17 ~~determined through accounting information that is provided by~~  
18 ~~the business and certified to be accurate and information~~  
19 ~~reported by the business to the federal internal revenue~~  
20 ~~service for the previous year] by the authority; and~~

21 [~~(4)~~] (3) is organized and operated as a  
22 nonprofit corporation or is owned as follows:

23 (a) for a sole proprietorship, one  
24 hundred percent of the assets of the business are owned or  
25 leased by a New Mexico resident; and

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1 (b) for a corporation, partnership,  
 2 joint venture, limited liability company, limited partnership  
 3 or other business entity, at least ~~[eighty]~~ fifty-one percent  
 4 of the total voting power of the entity and at least ~~[eighty]~~  
 5 fifty-one percent of the total value of the equity is owned by  
 6 one or more New Mexico residents or the business entity  
 7 maintains a physical business location within the state and has  
 8 employed at least ten full-time New Mexico resident employees  
 9 at any time since January 1, 2019; and

10 ~~[H. "service provider" means a nonprofit or~~  
 11 ~~governmental organization that provides interactive, technical~~  
 12 ~~assistance to small businesses, including:~~

- 13 (1) ~~developing sustainable business practices;~~  
 14 (2) ~~training in marketing, administration and~~  
 15 ~~financial management; and~~  
 16 (3) ~~complying with legal requirements,~~  
 17 ~~licensing requirements and tax liabilities; and~~

18 ~~[F.]~~ F. "nonprofit corporation" means an [entity  
 19 ~~organized pursuant to Section 501(c)(3) or 501(c)(6) of the~~  
 20 ~~Internal Revenue Service Code]~~ organization that has been  
 21 granted exemption from the federal income tax by the United  
 22 States commissioner of internal revenue as an organization  
 23 described in Section 501(c)(3), 501(c)(6), 501(c)(8),  
 24 501(c)(19) or 501(c)(23) of the United States Internal Revenue  
 25 Code of 1986 and subject to the provisions of the Nonprofit

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1 Corporation Act."

2 SECTION 3. Section 6-32-3 NMSA 1978 (being Laws 2020 (1st  
3 S.S.), Chapter 6, Section 3) is amended to read:

4 "6-32-3. SMALL BUSINESS RECOVERY LOAN FUND--CREATED--  
5 FUNDING SCHEDULE.--

6 A. The "small business recovery loan fund" is  
7 created in the authority. The fund consists of appropriations,  
8 gifts, grants, deposits, transfers and donations to the fund.  
9 Money in the fund is appropriated to the authority to  
10 administer the provisions of the Small Business Recovery and  
11 Stimulus Act [of 2020]. The authority shall administer the  
12 fund. Balances remaining in the fund [~~at the end of fiscal~~  
13 ~~year 2022~~] as of December 31, 2022 and not identified by the  
14 authority as necessary to administer the Small Business  
15 Recovery and Stimulus Act over the life of the loans provided  
16 pursuant to that act shall revert to the severance tax  
17 permanent fund. The authority may expend no more than [~~one~~]  
18 two percent of the [balance of the fund] state investment  
19 council's commitment pursuant to Section 7-27-5.15 NMSA 1978  
20 for administering the Small Business Recovery and Stimulus Act  
21 [of 2020].

22 B. Upon the effective date of this [~~2020~~] 2021 act,  
23 the authority and the state investment council shall coordinate  
24 to develop a funding schedule to ensure that sufficient  
25 funding, as provided for in Section [~~10 of this 2020 act~~]

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1 7-27-5.15 NMSA 1978, is made available to the authority to  
2 carry out the provisions of the Small Business Recovery and  
3 Stimulus Act [~~of 2020~~]."

4 SECTION 4. Section 6-32-4 NMSA 1978 (being Laws 2020 (1st  
5 S.S.), Chapter 6, Section 4) is amended to read:

6 "6-32-4. LOANS--TERMS.--

7 A. The authority shall receive and review  
8 applications for small business recovery loans pursuant to the  
9 Small Business Recovery and Stimulus Act. [~~of 2020. The~~  
10 ~~authority shall review all small business recovery loan~~  
11 ~~applications in the order in which the completed applications~~  
12 ~~were received and shall provide a determination to the~~  
13 ~~applicant as soon as practicable]~~ The authority may designate  
14 one or more application periods and shall review small business  
15 recovery loan applications received in each application period  
16 in the order in which the completed applications were received  
17 and shall provide a determination to the applicant within a  
18 reasonable time period after review. The authority shall make  
19 loans to qualifying small businesses; provided that funds are  
20 available and the qualifying small business [~~meets the~~  
21 ~~requisite creditworthiness]~~ satisfies credit and identification  
22 criteria, as determined by the authority. The authority shall  
23 adopt rules to govern the application procedures and  
24 requirements for disbursing loans under the Small Business  
25 Recovery and Stimulus Act [~~of 2020~~], including requirements

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1 consistent with the purpose of that act for determining the  
2 eligibility of qualifying small businesses for loans; provided  
3 that the authority [~~shall not create additional requirements~~  
4 ~~for eligibility other than those provided by that act~~] may  
5 issue rules to permit a business that does not have a record of  
6 actual losses, but can otherwise satisfy the requirements of  
7 the Small Business Recovery and Stimulus Act, to apply for a  
8 small business recovery loan.

9 B. The authority shall evaluate [~~the~~  
10 ~~creditworthiness of an applicant~~] an application based on  
11 information received from the applicant [~~which may include an~~  
12 ~~independent credit reporting agency report when available.~~

13 C. ~~The authority may use funding made available for~~  
14 ~~the Small Business Recovery Act of 2020 to contract with a loan~~  
15 ~~servicer to assist in carrying out the provisions of the Small~~  
16 ~~Business Recovery Act of 2020, including determining:~~

17 ~~(1) whether an entity meets the requirements~~  
18 ~~to be considered a qualifying small business;~~

19 ~~(2) whether a qualifying small business is~~  
20 ~~eligible for a small business recovery loan; and~~

21 ~~(3) the amount that the qualifying small~~  
22 ~~business is eligible to receive for a small business recovery~~  
23 ~~loan] as well as third-party credit and identification reports.~~

24 [~~D.~~] C. The authority shall make small business  
25 recovery loans in accordance with the following:

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1 (1) the loan amount shall be in an amount  
 2 ~~[equal to two]~~ not to exceed three hundred percent of the  
 3 qualifying small business's average ~~[adjusted]~~ monthly business  
 4 expenses ~~[from the previous calendar or fiscal year]~~ as  
 5 determined by the authority; provided that the maximum loan  
 6 amount shall be no greater than ~~[seventy-five thousand dollars~~  
 7 ~~(\$75,000)]~~ one hundred fifty thousand dollars (\$150,000);

8 (2) the terms of the loan shall require that  
 9 ~~[the loan recipient]~~:

10 (a) for a loan recipient that is not a  
 11 non-employer business, the recipient shall use a minimum of  
 12 eighty percent of the proceeds of the loan for: 1) ordinary  
 13 and necessary business expenses, including capital expenses,  
 14 other than compensation for ~~[employees]~~ an individual who ~~[owns]~~  
 15 owns equity in the business; 2) making adaptations or  
 16 improvements to assets, including real property, that are  
 17 necessary due to the coronavirus disease 2019 public health  
 18 emergency to protect the public health; and 3) purchasing or  
 19 improving any assets for the purpose of developing and growing  
 20 the qualifying small business's e-commerce production and sales  
 21 capacity;

22 (b) for a loan recipient that is a non-  
 23 employer business, the recipient shall use a minimum of fifty  
 24 percent of the proceeds of the loan for: 1) ordinary and  
 25 necessary business expenses, including capital expenses, other

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1 than compensation for an individual who owns equity in the  
2 business; 2) making adaptations or improvements to assets,  
3 including real property, that are necessary due to the  
4 coronavirus disease 2019 public health emergency to protect the  
5 public health; and 3) purchasing or improving any assets for  
6 the purpose of developing and growing the qualifying small  
7 business's e-commerce production and sales capacity;

8                   [~~(b)~~] (c) the loan recipient provide a  
9 written certification signed by an appropriate officer of the  
10 qualifying small business that certifies that: 1) the officer  
11 understands that the business is receiving a loan under the  
12 Small Business Recovery and Stimulus Act [~~of 2020~~] that must be  
13 repaid by the business with interest under the terms of the  
14 loan agreement; 2) all documents submitted in support of the  
15 loan application and all statements and certifications made in  
16 the loan application are true and accurate to the best of the  
17 officer's knowledge; [~~3) the officer has a reasonable basis to~~  
18 ~~believe that, as of the date of origination of the loan and~~  
19 ~~receipt of the loan proceeds, the business does not expect to~~  
20 ~~permanently cease business operations or file for bankruptcy;~~  
21 ~~4)] 3) prior to the issuance of the public health order issued  
22 by the secretary of health on March 23, 2020, the business was  
23 current on all obligations pursuant to the Income Tax Act, the  
24 Corporate Income and Franchise Tax Act, the Withholding Tax  
25 Act, the Gross Receipts and Compensating Tax Act and the~~

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1 Unemployment Compensation Law applicable to the business's  
 2 operations; and ~~[5]~~ 4) all loan proceeds will be used for  
 3 purposes as provided in the Small Business Recovery and  
 4 Stimulus Act ~~[of 2020]~~, including that no more than twenty  
 5 percent of the proceeds may be used as compensation for  
 6 employees who own equity in the business; and

7 ~~[(e)]~~ (d) the loan recipient provide the  
 8 authority with ongoing information relevant to the reporting  
 9 requirements of the authority provided in Section ~~[7 of the~~  
 10 ~~Small Business Recovery Act of 2020]~~ 6-32-7 NMSA 1978;

11 (3) the terms of the loan shall not require  
 12 that the qualifying small business provide a personal guarantee  
 13 or collateral to secure ~~[the]~~ a loan in the amount of  
 14 seventy-five thousand dollars (\$75,000) or less. For a loan in  
 15 an amount greater than seventy-five thousand dollars (\$75,000),  
 16 the authority may require a personal guarantee or collateral to  
 17 secure the amount of the loan greater than seventy-five  
 18 thousand dollars (\$75,000); provided that the authority shall  
 19 define specific guidelines related to personal guarantees or  
 20 collateral; and

21 (4) the application for a loan must be  
 22 received no later than ~~[December 31, 2020]~~ May 31, 2022.

23 ~~[E.]~~ D. The authority may exercise any power  
 24 provided to the authority in the New Mexico Finance Authority  
 25 Act to assist in the administration of ~~[this]~~ the Small

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1 Business Recovery and Stimulus Act; provided that the power is  
2 consistent with the provisions of [~~this~~] that act."

3 SECTION 5. Section 6-32-5 NMSA 1978 (being Laws 2020 (1st  
4 S.S.), Chapter 6, Section 5) is amended to read:

5 "6-32-5. REPAYMENT.--

6 A. Small business recovery loans shall be made for  
7 [~~an initial loan period of three~~] loan periods not to exceed  
8 ten years, as determined by the authority. The loans shall  
9 bear an annual interest rate equal to one-half of the *Wall*  
10 *Street Journal* prime rate on the date the loan is made;  
11 provided that no interest shall accrue during the first year of  
12 the loan.

13 B. [~~Payment of the interest accrued on a small~~  
14 ~~business recovery loan shall be due in annual installments with~~  
15 ~~the first interest payment due on the first anniversary of the~~  
16 ~~funding date of the loan, and with each subsequent interest~~  
17 ~~payment due on each subsequent anniversary of the funding date~~  
18 ~~of the loan thereafter until the loan is paid in full. Payment~~  
19 ~~on the outstanding principal of a small business recovery loan~~  
20 ~~may be made on the third anniversary of the funding date of the~~  
21 ~~loan, or the outstanding principal and interest on the loan may~~  
22 ~~be converted to a loan, at the request of the borrower and with~~  
23 ~~the consent of the authority, to be paid in monthly~~  
24 ~~installments over a period of three additional years] Interest  
25 shall begin to accrue on a small business recovery loan on the~~

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1 first anniversary of the funding date of the loan. Thereafter,  
 2 for the next two years, the authority shall require interest-  
 3 only payments on a schedule determined by the authority.  
 4 Beginning on the third anniversary of the funding date of the  
 5 loan, payment on the outstanding principal and interest on the  
 6 loan shall be due on a schedule determined by the authority for  
 7 the remainder of the loan period.

8 C. Receipts from the repayment of principal or  
 9 interest accrued on the loans made pursuant to the Small  
 10 Business Recovery and Stimulus Act [~~of 2020~~] shall be  
 11 transferred from the authority to the state investment council  
 12 and deposited in the severance tax permanent fund.

13 D. No provision in a small business recovery loan  
 14 or the evidence of indebtedness of the loan shall include a  
 15 penalty or premium for prepayment of the balance of the  
 16 indebtedness."

17 SECTION 6. Section 6-32-7 NMSA 1978 (being Laws 2020 (1st  
 18 S.S.), Chapter 6, Section 7) is amended to read:

19 "6-32-7. REPORTS--CONFIDENTIALITY.--

20 A. Prior to October 1, 2021 and each October 1 for  
 21 the proceeding four years, the authority shall submit a report  
 22 to the legislature, the legislative finance committee, the New  
 23 Mexico finance authority oversight committee, the revenue  
 24 stabilization and tax policy committee and any other  
 25 appropriate legislative interim committee. The report shall

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1 provide details regarding the loans made pursuant to the Small  
2 Business Recovery and Stimulus Act [~~of 2020~~]. The report shall  
3 include:

4 (1) the total number of loans made pursuant to  
5 that act;

6 (2) the total number of loan applications;

7 (3) the average amount of money provided to  
8 loan applicants;

9 (4) the total number of loans and the amount  
10 of those loans, if any, in a delinquent status or default;

11 (5) the total number of loan recipients that  
12 are in the process of filing or have filed for bankruptcy;

13 (6) the total number of employees currently  
14 employed by a business that received a loan; and

15 (7) an overview of the industries and types of  
16 business entities represented by loan recipients.

17 B. Information obtained by the authority regarding  
18 individual loan applicants, including information used to  
19 analyze an application, is confidential and not subject to  
20 inspection pursuant to the Inspection of Public Records Act;  
21 provided that nothing in this section shall prevent the  
22 authority from disclosing broad demographic information and  
23 information relating to the total amount of loans made, the  
24 total outstanding balance of loans made pursuant to the Small  
25 Business Recovery and Stimulus Act [~~of 2020~~] and the names of

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1 the loan recipients."

2 SECTION 7. Section 7-27-5.15 NMSA 1978 (being Laws 1990,  
3 Chapter 126, Section 5, as amended) is amended to read:

4 "7-27-5.15. NEW MEXICO PRIVATE EQUITY FUNDS AND NEW  
5 MEXICO BUSINESS INVESTMENTS.--

6 A. In addition to the investments required by  
7 Subsections F and G of this section, no more than eleven  
8 percent of the market value of the severance tax permanent fund  
9 may be invested in New Mexico private equity funds or New  
10 Mexico businesses under this section.

11 B. In making investments pursuant to Subsection A  
12 of this section, the council shall make investments in New  
13 Mexico private equity funds or New Mexico businesses whose  
14 investments or enterprises enhance the economic development  
15 objectives of the state.

16 C. The state investment officer shall make  
17 investments pursuant to Subsection A of this section only upon  
18 approval of the council and within guidelines and policies  
19 established by the council.

20 D. As used in this section:

21 (1) "New Mexico business" means, in the case  
22 of a corporation or limited liability company, a business with  
23 its principal office and a majority of its full-time employees  
24 located in New Mexico or, in the case of a limited partnership,  
25 a business with its principal place of business and eighty

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1 percent of its assets located in New Mexico; and

2 (2) "New Mexico private equity fund" means an  
3 entity that makes, manages or sources potential investments in  
4 New Mexico businesses and that:

5 (a) has as its primary business activity  
6 the investment of funds in return for equity in or debt of  
7 businesses for the purpose of providing capital for start-up,  
8 expansion, product or market development, recapitalization or  
9 similar business purposes;

10 (b) holds out the prospects for capital  
11 appreciation from such investments;

12 (c) has at least one full-time manager  
13 with at least three years of professional experience in  
14 assessing the growth prospects of businesses or evaluating  
15 business plans;

16 (d) is committed to investing or helps  
17 secure investing by others, in an amount at least equal to the  
18 total investment made by the state investment officer in that  
19 fund pursuant to this section, in businesses with a principal  
20 place of business in New Mexico and that hold promise for  
21 attracting additional capital from individual or institutional  
22 investors nationwide for businesses in New Mexico; and

23 (e) accepts investments only from  
24 accredited investors as that term is defined in Section 2 of  
25 the federal Securities Act of 1933, as amended (15 USCA Section

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1 77(b)), and rules and regulations promulgated pursuant to that  
2 section, or federally recognized Indian tribes, nations and  
3 pueblos with at least five million dollars (\$5,000,000) in  
4 overall investment assets.

5 E. The state investment officer is authorized to  
6 make investments in New Mexico businesses to create new job  
7 opportunities and to support new, emerging or expanding  
8 businesses in a manner consistent with the constitution of New  
9 Mexico if:

10 (1) the investments are made:

11 (a) in conjunction with cooperative  
12 investment agreements with parties that have demonstrated  
13 abilities and relationships in making investments in new,  
14 emerging or expanding businesses;

15 (b) in a New Mexico aerospace business  
16 that has received an award from the United States government or  
17 one of its agencies or instrumentalities: 1) in an amount, not  
18 less than one hundred million dollars (\$100,000,000), that is  
19 equal to at least ten times the investment from the severance  
20 tax permanent fund; and 2) for the purpose of stimulating  
21 commercial enterprises; or

22 (c) in a New Mexico business that: 1)  
23 is established to perform technology transfer, research and  
24 development, research commercialization, manufacturing,  
25 training, marketing or public relations in any field of science

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1 or technology, including but not limited to energy, security,  
2 defense, aerospace, automotives, electronics,  
3 telecommunications, computer and information science,  
4 environmental science, biomedical science, life science,  
5 physical science, materials science or nanoscience, using  
6 research developed in whole or in part by a state institution  
7 of higher education or a prime contractor designated as a  
8 national laboratory by an act of congress that is operating a  
9 facility in the state, or an affiliated entity; and 2) has an  
10 agreement to operate the business on state lands;

11 (2) an investment in any one business does not  
12 exceed ten percent of the amount available for investment  
13 pursuant to this section; and

14 (3) the investments represent no more than  
15 fifty-one percent of the total investment capital in a  
16 business; provided, however, that nothing in this subsection  
17 prohibits the ownership of more than fifty-one percent of the  
18 total investment capital in a New Mexico business if the  
19 additional ownership interest:

20 (a) is due to foreclosure or other  
21 action by the state investment officer pursuant to agreements  
22 with the business or other investors in that business;

23 (b) is necessary to protect the  
24 investment; and

25 (c) does not require an additional

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1 investment of the severance tax permanent fund.

2 F. In addition to the investments required by  
3 Subsections A and G of this section, the state investment  
4 officer shall make a commitment to the small business  
5 investment corporation pursuant to the Small Business  
6 Investment Act to invest two percent of the market value of the  
7 severance tax permanent fund to create new job opportunities by  
8 providing capital for land, buildings or infrastructure for  
9 facilities to support new or expanding businesses and to  
10 otherwise make investments to create new job opportunities to  
11 support new or expanding businesses in a manner consistent with  
12 the constitution of New Mexico. On July 1 of each year, the  
13 state investment officer shall determine whether the invested  
14 capital in the small business investment corporation is less  
15 than two percent of the market value of the severance tax  
16 permanent fund. If the invested capital in the small business  
17 investment corporation equals less than two percent of the  
18 market value of the severance tax permanent fund, further  
19 commitments shall be made until the invested capital is equal  
20 to two percent of the market value of the fund.

21 G. In addition to the investments provided for in  
22 Subsections A and F of this section, the state investment  
23 officer shall make a commitment to the New Mexico finance  
24 authority to invest the lesser of four hundred million dollars  
25 (\$400,000,000) or ten percent of the market value of the

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1 severance tax permanent fund in investments made pursuant to  
2 the Small Business Recovery and Stimulus Act [~~of 2020~~];  
3 provided that:

4 (1) investments made pursuant to and in  
5 compliance with the Small Business Recovery and Stimulus Act  
6 [~~of 2020~~] shall be deemed to be in compliance with the prudent  
7 investor rule set forth in the Uniform Prudent Investor Act;  
8 and

9 (2) the New Mexico finance authority shall not  
10 be held liable for investments made pursuant to this subsection  
11 that do not provide a return on investment that is comparable  
12 to other differential rate investments made pursuant to the  
13 Severance Tax Bonding Act.

14 H. The state investment officer shall report  
15 semiannually on the investments made pursuant to this section.  
16 Annually, a report shall be submitted to the legislature prior  
17 to the beginning of each regular legislative session and a  
18 second report no later than October 1 each year to the  
19 legislative finance committee, the revenue stabilization and  
20 tax policy committee and any other appropriate interim  
21 committee. Each report shall provide the amounts invested in  
22 each New Mexico private equity fund, as well as information  
23 about the objectives of the funds, the companies in which each  
24 private equity fund is invested and how each private equity  
25 investment enhances the economic development objectives of the

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1 state. Each report also shall provide the amounts invested in  
2 each New Mexico business."

3 SECTION 8. TEMPORARY PROVISION--REFINANCING OF PREVIOUS  
4 LOANS.--For any small business recovery loan provided pursuant  
5 to the New Mexico Small Business Recovery Act of 2020 made  
6 prior to the effective date of this act, the New Mexico finance  
7 authority shall permit the recipient of that loan to refinance  
8 the loan subject to terms consistent with this 2021 act.

9 SECTION 9. REPEAL.--Section 6-32-6 NMSA 1978 (being Laws  
10 2020 (1st S.S.), Chapter 6, Section 6) is repealed.

11 SECTION 10. EMERGENCY.--It is necessary for the public  
12 peace, health and safety that this act take effect immediately.

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