

1 SENATE BILL 229

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO ECONOMIC DEVELOPMENT; ENACTING THE HEALTHY FOOD
12 FINANCING ACT; CREATING THE HEALTHY FOOD FINANCING PROGRAM IN
13 THE ECONOMIC DEVELOPMENT DEPARTMENT; CREATING THE EQUITABLE
14 FOOD-ORIENTED DEVELOPMENT ADVISORY BOARD; ESTABLISHING POWERS
15 AND DUTIES; CREATING A FUND; MAKING AN APPROPRIATION.

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

18 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
19 cited as the "Healthy Food Financing Act".

20 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
21 Healthy Food Financing Act:

22 A. "community development financial institution"
23 means a specialized organization, certified by the federal
24 department of the treasury, that provides financial services in
25 low-income communities and to people who lack access to

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1 financing, including through community development banks,
2 credit unions and loan and venture capital funds;

3 B. "department" means the economic development
4 department;

5 C. "grocery store" means a for-profit or nonprofit
6 self-service retail establishment that sells fresh fruits,
7 vegetables, meat, seafood, dairy products, dry groceries and
8 household products;

9 D. "healthy food" means nutrient-dense food, as
10 determined by the equitable food-oriented development advisory
11 board;

12 E. "low-income community" means a census tract
13 that, according to the most recent federal decennial census,
14 has a poverty rate of at least twenty percent or in which the
15 median family income does not exceed eighty percent of the
16 greater of the statewide or metropolitan median family income;

17 F. "moderate-income community" means a census tract
18 that, according to the most recent federal decennial census,
19 has a median family income that is between eighty-one and
20 ninety-five percent of the statewide median family income;

21 G. "socially disadvantaged group" means a group
22 whose members have been subjected to racial, ethnic or gender
23 prejudice because of their identity as members of a group
24 without regard to their individual qualities; and

25 H. "underserved community" means a census tract

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1 that is determined to be an area with low supermarket access
2 by:

3 (1) the United States department of
4 agriculture, pursuant to its food access research atlas; or

5 (2) the equitable food-oriented development
6 advisory board, pursuant to a methodology that the board adopts
7 and that is used by a government entity or philanthropic
8 healthy food initiative.

9 SECTION 3. [NEW MATERIAL] HEALTHY FOOD FINANCING
10 PROGRAM--CREATED--ADMINISTRATION.--

11 A. The "healthy food financing program" is created
12 in the department. The department shall administer the program
13 and shall, to the extent permitted by the Procurement Code,
14 enter into a contract with a food access organization and one
15 or more community development financial institutions, subject
16 to the limitations provided in Subsection B of this section,
17 to:

18 (1) market the program statewide;
19 (2) raise funds for the healthy food financing
20 fund;

21 (3) develop and recommend guidelines for the
22 operation of the program;

23 (4) develop and recommend guidelines for
24 applicants seeking grants or loans from the healthy food
25 financing fund;

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- 1 (5) make financing award decisions;
- 2 (6) originate and underwrite projects for
- 3 grants and loans;
- 4 (7) monitor compliance with the Healthy Food
- 5 Financing Act and rules issued pursuant to that act; and
- 6 (8) assess any economic effects in each
- 7 community in which a project for which a grant or loan is made
- 8 pursuant to the Healthy Food Financing Act is located.

9 B. The department may enter into a contract with a
10 community development financial institution only if the
11 department first determines that the institution has:

- 12 (1) experience lending to first-time loan
- 13 recipients and small-scale enterprises operating in low- or
- 14 moderate-income, underserved communities;
- 15 (2) the ability to underwrite loans and grants
- 16 to food retailers, distributors or other food and agriculture
- 17 enterprises; and
- 18 (3) the ability to raise funds to leverage
- 19 appropriations to the healthy food financing fund.

20 SECTION 4. [NEW MATERIAL] HEALTHY FOOD FINANCING PROGRAM
21 GRANTS AND LOANS.--

22 A. Each fiscal year, competitive grants or loans
23 shall be made by the department pursuant to recommendations of
24 the equitable food-oriented development advisory board. Grants
25 or loans shall be made from the healthy food financing fund to

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1 applicants for the following eligible projects:

2 (1) new grocery store construction;

3 (2) store renovation, expansion and
4 infrastructure upgrades proposed to improve the availability
5 and quality of healthy food;

6 (3) establishment of farmers' markets, food
7 cooperatives, community gardening projects and mobile food
8 markets;

9 (4) food aggregation, processing and
10 distribution projects, including hub distribution projects
11 proposed to benefit local food producers and to improve food
12 retailer access to fresh produce and healthy food; and

13 (5) analysis and study of methods to increase
14 market opportunities for projects that promote access to
15 healthy food.

16 B. A grant or loan made pursuant to this section
17 for an eligible project may be used for the following project-
18 related costs:

19 (1) site acquisition and preparation;

20 (2) construction costs and property
21 improvements;

22 (3) equipment and furnishings;

23 (4) workforce training;

24 (5) predevelopment costs, including market
25 studies and appraisals;

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1 (6) working capital for first-time inventory
2 and start-up costs;

3 (7) business process upgrades; and

4 (8) marketing.

5 C. Political subdivisions of the state, Indian
6 nations, tribes and pueblos and for-profit and nonprofit
7 entities may apply for loans and grants pursuant to this
8 section.

9 D. To be eligible for a grant or loan pursuant to
10 this section, an applicant shall provide to the equitable food-
11 oriented development advisory board documentation of:

12 (1) the applicant's ability to implement the
13 project for which the grant is sought;

14 (2) the ability for the project to become
15 economically self-sustaining;

16 (3) the applicant's ability to repay to the
17 healthy food financing fund any loan the applicant receives
18 pursuant to this section;

19 (4) the applicant's plan to promote, for at
20 least five years, the hiring of local residents in a manner
21 representative of the community that the applicant proposes to
22 serve;

23 (5) the applicant's:

24 (a) plan to accept, for at least five
25 years, benefits from consumers pursuant to the federal

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1 supplemental nutrition assistance program or the special
2 supplemental nutrition program for women, infants and children;
3 or

4 (b) plan, approved by the department, to
5 increase affordability of healthy food for low-income
6 households;

7 (6) the applicant's plan to allocate at least
8 thirty percent of food retail space for the sale of perishable
9 foods, if the loan or grant sought is for a grocery store; and

10 (7) the applicant's plan to use the grant or
11 loan to expand capacity for the sale of perishable foods, if
12 the loan or grant is not for a grocery store.

13 E. In addition to the requirements provided in
14 Subsection D of this section, to be eligible for a loan or
15 grant pursuant to this section, an applicant shall demonstrate
16 to the equitable food-oriented development advisory board that
17 the project for which funding is sought will primarily serve
18 underserved low-income or moderate-income communities.

19 SECTION 5. [NEW MATERIAL] HEALTHY FOOD FINANCING FUND.--
20 The "healthy food financing fund" is created as a nonreverting
21 fund in the state treasury. The department shall administer
22 the fund. The fund consists of appropriations, gifts, grants,
23 donations and income from investment of the fund. Money in the
24 fund is subject to appropriation by the legislature for the
25 purpose of making grants and loans pursuant to the Healthy Food

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1 Financing Act and for administration of that act. Money in the
2 fund shall be disbursed on warrants of the secretary of finance
3 and administration pursuant to vouchers signed by the secretary
4 of economic development. Not more than ten percent of the fund
5 shall be used for administration of the Healthy Food Financing
6 Act.

7 SECTION 6. [NEW MATERIAL] EQUITABLE FOOD-ORIENTED
8 DEVELOPMENT ADVISORY BOARD--MEMBERSHIP--POWERS AND DUTIES.--

9 A. The "equitable food-oriented development
10 advisory board" is created and is administratively attached to
11 the department. The board consists of five members appointed
12 by the secretary of economic development. Board members shall
13 serve three-year terms. The secretary shall appoint members
14 that are:

15 (1) low- or moderate-income farmers, food
16 entrepreneurs, value-added food producers and food retailers
17 from low- or moderate-income communities; and

18 (2) members of a socially disadvantaged group.

19 B. A majority of the members of the equitable
20 food-oriented development advisory board constitutes a quorum
21 for the transaction of business. The board shall elect a chair
22 from among its members.

23 C. The equitable food-oriented development advisory
24 board shall meet quarterly to review applications for grants
25 and loans from eligible applicants pursuant to the Healthy Food

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1 Financing Act and make recommendations to the department on
2 loans or grants to be made from the healthy food financing
3 fund, including the applicants for which loans or grants are
4 recommended, the amounts of the recommended loans or grants and
5 the projects for which the loans or grants are recommended.

6 The board shall additionally provide findings to the department
7 regarding eligibility of the applicants for which the loans or
8 grants are recommended.

9 D. In determining which applicants and projects to
10 recommend to the department for grants or loans, the equitable
11 food-oriented development advisory board shall consider:

12 (1) the applicant's demonstrated capacity to
13 implement a proposed project, including the likelihood that the
14 project will be economically self-sustaining;

15 (2) the economic need in the community where
16 the proposed project will be located;

17 (3) the availability of healthy food in the
18 community where the proposed project will be located;

19 (4) the degree to which the proposed project
20 will economically impact an underserved community, including
21 the degree to which jobs will be created or retained in that
22 community that provide employees with a living wage that
23 adjusts to compensate for inflation, paid sick leave, career-
24 building opportunities that help employees develop networks and
25 skills, provide access to training and mentorship and

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1 advancement within the business;

2 (5) whether the applicant resides or has a
3 business location in the area in which the proposed project
4 will be located;

5 (6) the degree to which the applicant will
6 participate in state and local health initiatives to provide
7 information about nutrition and wellness to members of the
8 public;

9 (7) the degree to which the proposed project
10 will promote sales of fresh produce;

11 (8) the degree to which the proposed project
12 will promote sales of fresh produce grown in New Mexico; and

13 (9) the degree to which the proposed project
14 will promote sales of fresh produce grown in healthy soil,
15 using practices that enhance the soil's continuing capacity to
16 function as a biological system, increase its organic matter
17 and improve its structure and water- and nutrient-holding
18 capacity.

19 E. The equitable food-oriented development advisory
20 board may give priority to applicants who are members of a
21 socially disadvantaged group.

22 SECTION 7. [NEW MATERIAL] RULEMAKING.--The department
23 shall issue rules necessary to administer the provisions of the
24 Healthy Food Financing Act.

25 SECTION 8. [NEW MATERIAL] REPORTING AND ACCOUNTABILITY.--

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1 The department shall:

2 A. establish monitoring and accountability
3 mechanisms for projects receiving financing; and

4 B. provide a report before December 1 of each year
5 to the legislative health and human services committee
6 describing the:

7 (1) applicants and projects that received
8 grants and loans pursuant to the Healthy Food Financing Act
9 during the previous fiscal year;

10 (2) applicants and projects for which loans
11 are outstanding at the time of each report;

12 (3) effects of the healthy food financing
13 program on job creation, job security and community health; and

14 (4) recommendations of the equitable food-
15 oriented development advisory board.

16 SECTION 9. APPROPRIATION.--Two hundred thousand dollars
17 (\$200,000) is appropriated from the general fund to the healthy
18 food financing fund for expenditure in fiscal year 2022 and
19 subsequent fiscal years for the purposes of the Healthy Food
20 Financing Act. Any unexpended or unencumbered balance
21 remaining at the end of a fiscal year shall not revert to the
22 general fund.

23 SECTION 10. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2021.