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AN ACT

RELATING TO BUSINESS; EXTENDING THE DATE APPLICATIONS FOR
LOANS PURSUANT TO THE SMALL BUSINESS RECOVERY AND STIMULUS
ACT MUST BE RECEIVED; EXTENDING THE REVERSION DATE OF
UNENCUMBERED MONEY IN THE SMALL BUSINESS RECOVERY LOAN FUND.

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

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

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

A. The "small business recovery loan fund" is
created in the authority. The fund consists of
appropriations, gifts, grants, deposits, transfers and
donations to the fund. Money in the fund is appropriated to
the authority to administer the provisions of the Small
Business Recovery and Stimulus Act. The authority shall
administer the fund. Balances remaining in the fund as of
December 31, 2023 and not identified by the authority as
necessary to administer the Small Business Recovery and
Stimulus Act over the life of the loans provided pursuant to
that act shall revert to the severance tax permanent fund.
The authority may expend no more than two percent of the
state investment council's commitment pursuant to Section

1 7-27-5.15 NMSA 1978 for administering the Small Business
2 Recovery and Stimulus Act.

3 B. On March 3, 2021, the authority and the state
4 investment council shall coordinate to develop a funding
5 schedule to ensure that sufficient funding, as provided for
6 in Section 7-27-5.15 NMSA 1978, is made available to the
7 authority to carry out the provisions of the Small Business
8 Recovery and Stimulus Act."

9 SECTION 2. Section 6-32-4 NMSA 1978 (being Laws 2020
10 (1st S.S.), Chapter 6, Section 4, as amended) is amended to
11 read:

12 "6-32-4. LOANS--TERMS.--

13 A. The authority shall receive and review
14 applications for small business recovery loans pursuant to
15 the Small Business Recovery and Stimulus Act. The authority
16 may designate one or more application periods and shall
17 review small business recovery loan applications received in
18 each application period in the order in which the completed
19 applications were received and shall provide a determination
20 to the applicant within a reasonable time period after
21 review. The authority shall make loans to qualifying small
22 businesses; provided that funds are available and the
23 qualifying small business satisfies credit and identification
24 criteria, as determined by the authority. The authority
25 shall adopt rules to govern the application procedures and

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

9 B. The authority shall evaluate an application
10 based on information received from the applicant as well as
11 third-party credit and identification reports.

12 C. The authority shall make small business
13 recovery loans in accordance with the following:

14 (1) the loan amount shall be in an amount
15 not to exceed three hundred percent of the qualifying small
16 business's average monthly business expenses as determined by
17 the authority; provided that the maximum loan amount shall be
18 no greater than one hundred fifty thousand dollars
19 (\$150,000);

20 (2) the terms of the loan shall require
21 that:

22 (a) for a loan recipient that is not a
23 non-employer business, the recipient shall use a minimum of
24 eighty percent of the proceeds of the loan for: 1) ordinary
25 and necessary business expenses, including capital expenses,

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

9 (b) for a loan recipient that is a non-
10 employer business, the recipient shall use a minimum of fifty
11 percent of the proceeds of the loan for: 1) ordinary and
12 necessary business expenses, including capital expenses,
13 other than compensation for an individual who owns equity in
14 the business; 2) making adaptations or improvements to
15 assets, including real property, that are necessary due to
16 the coronavirus disease 2019 public health emergency to
17 protect the public health; and 3) purchasing or improving any
18 assets for the purpose of developing and growing the
19 qualifying small business's e-commerce production and sales
20 capacity;

21 (c) the loan recipient provide a
22 written certification signed by an appropriate officer of the
23 qualifying small business that certifies that: 1) the
24 officer understands that the business is receiving a loan
25 under the Small Business Recovery and Stimulus Act that must

1 be repaid by the business with interest under the terms of
2 the loan agreement; 2) all documents submitted in support of
3 the loan application and all statements and certifications
4 made in the loan application are true and accurate to the
5 best of the officer's knowledge; 3) prior to the issuance of
6 the public health order issued by the secretary of health on
7 March 23, 2020, the business was current on all obligations
8 pursuant to the Income Tax Act, the Corporate Income and
9 Franchise Tax Act, the Withholding Tax Act, the Gross
10 Receipts and Compensating Tax Act and the Unemployment
11 Compensation Law applicable to the business's operations; and
12 4) all loan proceeds will be used for purposes as provided in
13 the Small Business Recovery and Stimulus Act, including that
14 no more than twenty percent of the proceeds may be used as
15 compensation for employees who own equity in the business;
16 and

17 (d) the loan recipient provide the
18 authority with ongoing information relevant to the reporting
19 requirements of the authority provided in Section 6-32-7 NMSA
20 1978;

21 (3) the terms of the loan shall not require
22 that the qualifying small business provide a personal
23 guarantee or collateral to secure a loan in the amount of
24 seventy-five thousand dollars (\$75,000) or less. For a loan
25 in an amount greater than seventy-five thousand dollars

1 (\$75,000), the authority may require a personal guarantee or
2 collateral to secure the amount of the loan greater than
3 seventy-five thousand dollars (\$75,000); provided that the
4 authority shall define specific guidelines related to
5 personal guarantees or collateral; and

6 (4) the application for a loan must be
7 received no later than December 31, 2022.

8 D. The authority may exercise any power provided
9 to the authority in the New Mexico Finance Authority Act to
10 assist in the administration of the Small Business Recovery
11 and Stimulus Act; provided that the power is consistent with
12 the provisions of that act."

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