

LFC Requester:

C. Carswell

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

Analysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Date Prepared: 1/20/2024

Original **Amendment**

Bill No: SB 109

Correction **Substitute**

**Agency Name and
Code Number:** NMFA (385)

Sponsor: Carrie Hamblen

Short Title: Catastrophic Business Relief Act

Person Writing Marquita Russel

Phone: 505-992-9619 **Email** mrussel@nmfa.net

SECTION II: FISCAL IMPACT**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
-0-	(25,250)	Nonrecurring	General Fund
-0-	25,000	Nonrecurring	Catastrophic Business Relief Loan Fund
-0-	250	Nonrecurring	NMFA Operating Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
-0-	unknown	unknown		Catastrophic Business Relief Loan Fund

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected

Total	\$50	\$200	\$0	\$250	Non-Recurring	Catastrophic Business Relief Loan Fund
Total	\$0	\$300	\$500	\$800	Recurring	NMFA Operating Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE
BILL SUMMARY

SB 109 creates the Catastrophic Business Relief Act (“Act”) and within the Act, creates the Catastrophic Business Relief Loan Fund (“Fund”) in the New Mexico Finance Authority (“NMFA”). The bill calls for the NMFA to make catastrophic business relief loans to qualifying business’s that have experienced a catastrophic event (as defined in the Act) in an amount up to 200% of a qualifying business’s adjusted monthly expenses from the previous calendar or fiscal year, provided that in no event will a loan exceed \$25,000. Loans will be interest only for an initial period of 3 years with principal due upon maturity, will bear an annual interest rate of 1%, and can be converted at the end of the initial term for an additional 3 years with monthly payments of principal and interest if approved by the NMFA. Certain information obtained is protected and not subject to the Inspection of Public Records Act. NMFA will adopt rules to govern the application procedures and requirements for qualifying for a catastrophic business relief loan, including guidelines related to personal guarantees and collateral. The Fund is capitalized with a \$25,000,000 distribution from the state’s general fund. An appropriation of \$250,000 is provided to NMFA from the State’s General Fund to administer the loan program.

FISCAL IMPLICATIONS

Revenue: The loans would generate an interest income at the rate of 1%, however it is difficult to anticipate the demand for the program. Additionally, although the Fund would generate income from investments, it is difficult to predict with any certainty what that figure would be.

Expenditures: NMFA projects that the \$250k appropriation to the NMFA is insufficient to cover the administrative costs. Program implementation and the first year of policy creation, underwriting, and lending is projected to cost \$500,000. The variable expenses will occur in underwriting and servicing loans based on volume, thus if there is stronger demand for the program, the cost of administering the program will increase dramatically in the short term and long term. NMFA requests that it be allowed to recover from the fund the actual cost of administration rather than a fixed amount from the general fund.

SIGNIFICANT ISSUES

Repayment Schedule: The annual interest only repayment provisions are similar to those contained in the Small Business Recovery Loan Fund. NMFA’s experience is all repayments should be monthly so that the borrower can more actively plan and manage loan repayments.

Loan Amount: The prescribed loan amount calculation may be insufficient for the business to recover from the catastrophic event even if the applicant is considered creditworthy. Raising the maximum loan amount, while also allowing the NMFA to determine the final loan amount within

parameters set in rule and policy may allow an amount more congruent with the borrower's needs and improve the probability of repayment.

PERFORMANCE IMPLICATIONS

Section 4.D requires NMFA to use prudent lending practices which include a projection of a business's ability to repay a loan and to recover from available collateral amounts sufficient to extinguish the debt should the business not be able to make loan payments. Unlike the loans made under the Small Business Recovery Act, whereby the SIC made an investment into what is essentially a portfolio of unsecured recovery loans structured pursuant to law, here, the NMFA would be required to continue following its longstanding practice of using prudent lending practices to evaluate, underwrite, secure, approve, monitor and service loans in its portfolio. The cost of this underwriting, securing, approving, monitoring and loan servicing over a likely six-year term does not change based upon the size of the loan, but does create significant risk to the NMFA given the purposes of the proposed catastrophic lending program. As a result, the appropriation for administration will almost certainly be utilized in full even before the completion of the first year of the program, leaving the remaining five years unfunded and the NMFA searching for ways to properly manage the program efficiently and effectively.

Annual interest only payments could cause borrowers to be unprepared to start making payments when due, thus causing the loan to be challenging and time intensive to collect.

ADMINISTRATIVE IMPLICATIONS

The administrative implications are difficult to predict and plan. Given the nature of catastrophic events, estimating the volume and demand for the program will be difficult to predict and therefore to staff appropriately. The requirement that NMFA make determinations with five business days will likely not be sustainable. As noted above, the administrative costs borne by NMFA could be significant, and without an identified source of recovery for NMFA's administrative burden, potentially poses a significant burden upon NMFA operations.

TECHNICAL ISSUES

Section 3A creates the fund in the NMFA. Section 3.B incorrectly identifies that the investment of the fund shall occur through the state investment officer. Because the bill contains a general fund appropriation and the fund is held at the NMFA, the funds would be managed by NMFA and not managed by the state investment officer.

AMENDMENTS

Strike section 3B in its entirety and replace with "The authority may establish procedures to administer the fund and to recover from the fund its actual costs of administering the fund and originating and servicing loans."

Section 3C should be amended to provide that NMFA will be responsible for reporting and the section updated with the appropriate legislative committees to receive such reports.