

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 229

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

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; ENACTING THE HEALTHY FOOD FINANCING ACT; CREATING THE HEALTHY FOOD FINANCING PROGRAM IN THE ECONOMIC DEVELOPMENT DEPARTMENT; CREATING THE EQUITABLE FOOD-ORIENTED DEVELOPMENT ADVISORY BOARD; ESTABLISHING POWERS AND DUTIES.

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

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

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

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

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. "healthy soil" means soil cared for using
13 practices that enhance the soil's continuing capacity to
14 function as a biological system, increase the soil's organic
15 matter and improve its structure and water- and nutrient-
16 holding capacity pursuant to the Healthy Soil Act;

17 F. "low-income community" means a census tract
18 that, according to the most recent federal decennial census,
19 has a poverty rate of at least twenty percent or in which the
20 median family income does not exceed eighty percent of the
21 greater of the statewide or metropolitan median family income;

22 G. "moderate-income community" means a census tract
23 that, according to the most recent federal decennial census,
24 has a median family income that is between eighty-one and
25 ninety-five percent of the statewide median family income;

.220204.2

1 H. "socially disadvantaged group" means a group
2 whose members have been subjected to racial, ethnic or gender
3 prejudice because of their identity as members of a group
4 without regard to their individual qualities; and

5 I. "underserved community" means a census tract
6 that is determined to be an area with low supermarket access
7 by:

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

10 (2) the equitable food-oriented development
11 advisory board, pursuant to a methodology that the board adopts
12 and that is used by a government entity or philanthropic
13 healthy food initiative.

14 SECTION 3. ~~[NEW MATERIAL]~~ HEALTHY FOOD FINANCING

15 PROGRAM--CREATED--ADMINISTRATION.--The "healthy food financing
16 program" is created in the department. The department shall
17 administer the program and shall, to the extent permitted by
18 the Procurement Code, enter into a contract with a community
19 development financial institution to:

- 20 A. market the program statewide;
21 B. develop and recommend guidelines for the
22 operation of the program;
23 C. develop and recommend guidelines for applicants
24 seeking grants or loans;
25 D. make financing award decisions;

.220204.2

underscoring material = new
[bracketed material] = delete

1 E. originate and underwrite projects for grants and
2 loans;

3 F. monitor compliance with the Healthy Food
4 Financing Act and rules issued pursuant to that act; and

5 G. assess any economic effects in each low- or
6 moderate-income community in which a project for which a grant
7 or loan is made pursuant to the Healthy Food Financing Act is
8 located.

9 SECTION 4. ~~[NEW MATERIAL]~~ HEALTHY FOOD FINANCING PROGRAM
10 GRANTS AND LOANS.--

11 A. Each fiscal year, competitive grants or loans
12 shall be made by the community development financial
13 institution pursuant to recommendations of the equitable food-
14 oriented development advisory board. Grants or loans shall be
15 made to applicants for the following eligible projects:

16 (1) new grocery store construction;

17 (2) store renovation, expansion and
18 infrastructure upgrades proposed to improve the availability
19 and quality of healthy food;

20 (3) establishment of farmers' markets, food
21 cooperatives, community gardening projects and mobile food
22 markets;

23 (4) food production, aggregation, processing
24 and distribution projects, including hub distribution projects
25 proposed to benefit local food producers and to improve food

.220204.2

1 retailer access to fresh produce and healthy food; and

2 (5) analysis and study of methods to increase
3 market opportunities for projects that promote access to
4 healthy food.

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

8 (1) site acquisition and preparation;

9 (2) construction costs and property
10 improvements;

11 (3) equipment and furnishings;

12 (4) workforce training;

13 (5) predevelopment costs, including market
14 studies and appraisals;

15 (6) working capital for first-time inventory
16 and start-up costs;

17 (7) business process upgrades; and

18 (8) marketing.

19 C. Political subdivisions of the state, Indian
20 nations, tribes and pueblos and for-profit and nonprofit
21 entities may apply for loans and grants pursuant to this
22 section.

23 D. To be eligible for a grant or loan pursuant to
24 this section, an applicant shall provide to the equitable food-
25 oriented development advisory board documentation supporting:

.220204.2

underscored material = new
~~[bracketed material] = delete~~

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

3 (2) the ability for the project to become
4 economically self-sustaining;

5 (3) the applicant's likelihood to repay any
6 loan the applicant receives pursuant to this section;

7 (4) the applicant's plan to promote, for at
8 least five years, the hiring of local residents in a manner
9 representative of the community that the applicant proposes to
10 serve;

11 (5) the applicant's:

12 (a) plan to accept, for at least five
13 years, benefits from consumers pursuant to the federal
14 supplemental nutrition assistance program or the special
15 supplemental nutrition program for women, infants, and
16 children; or

17 (b) plan, approved by the department, to
18 increase affordability of healthy food for low-income
19 households;

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

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

.220204.2

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

7 **SECTION 5. [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. The board consists of five members
 11 appointed by the secretary of economic development, in
 12 consultation with the community development financial
 13 institution. Board members shall serve three-year terms.

14 Members shall be:

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 food-
 20 oriented development advisory board constitutes a quorum for
 21 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 on an as-needed basis, but no more than eight
 25 times per year, to review applications for grants and loans

.220204.2

1 from eligible applicants pursuant to the Healthy Food Financing
2 Act and make recommendations to the community development
3 financial institution on loans or grants, including the
4 applicants for which loans or grants are recommended, the
5 amounts of the recommended loans or grants and the projects for
6 which the loans or grants are recommended. The board shall
7 additionally provide findings to the community development
8 financial institution regarding eligibility of the applicants
9 for which the loans or grants are recommended.

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

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

17 (2) the economic need in the community where
18 the proposed project will be located;

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

21 (4) the degree to which the proposed project
22 will economically impact an underserved community, including
23 the degree to which jobs will be created or retained in that
24 community that provide employees with a living wage that
25 adjusts to compensate for inflation, paid sick leave, career-

1 building opportunities that help employees develop networks and
 2 skills, provide access to training and mentorship and
 3 advancement within the business;

4 (5) whether the applicant resides within a
 5 thirty-mile radius of the location of the proposed project;

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

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

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

14 (9) the degree to which the proposed project
 15 will promote sales of fresh produce grown in healthy soil.

16 E. The equitable food-oriented development advisory
 17 board may give priority to applicants who are members of a
 18 socially disadvantaged group.

19 SECTION 6. [NEW MATERIAL] RULEMAKING.--The department
 20 shall issue rules necessary to administer the provisions of the
 21 Healthy Food Financing Act.

22 SECTION 7. [NEW MATERIAL] REPORTING AND ACCOUNTABILITY.--
 23 The community development financial institution shall:

24 A. establish monitoring and accountability
 25 mechanisms for projects receiving financing; and

.220204.2

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

4 (1) applicants and projects that received
5 grants and loans pursuant to the Healthy Food Financing Act
6 during the previous fiscal year;

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

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

11 (4) recommendations of the equitable food-
12 oriented development advisory board.

13 SECTION 8. EFFECTIVE DATE.--The effective date of the
14 provisions of this act is July 1, 2021.

underscoring material = new
~~[bracketed material]~~ = delete