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HOUSE BILL 195

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Linda Serrato and Meredith A. Dixon and Joy Garratt
and Michael Padilla

AN ACT

RELATING TO FINANCE; AMENDING AND ENACTING SECTIONS OF THE
OPPORTUNITY ENTERPRISE ACT AND CHANGING THE NAME OF THE ACT;
ALLOWING THE NEW MEXICO FINANCE AUTHORITY TO PROVIDE HOUSING
DEVELOPMENT LOANS; CREATING THE HOUSING DEVELOPMENT REVOLVING
FUND; DEFINING TERMS; AMENDING THE STRUCTURE OF THE OPPORTUNITY
ENTERPRISE REVIEW BOARD AND CHANGING ITS NAME; PROVIDING
DUTIES; REQUIRING RULEMAKING; AMENDING REQUIREMENTS FOR
OPPORTUNITY ENTERPRISE LOANS; REQUIRING REPORTING.

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

SECTION 1. Section 6-34-1 NMSA 1978 (being Laws 2022,
Chapter 57, Section 1) is amended to read:

"6-34-1. SHORT TITLE.--~~[This act]~~ Chapter 6, Article 34
NMSA 1978 may be cited as the "Opportunity Enterprise and
Housing Development Act"."

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1 SECTION 2. Section 6-34-2 NMSA 1978 (being Laws 2022,
2 Chapter 57, Section 2) is amended to read:

3 "6-34-2. DEFINITIONS.--As used in the Opportunity
4 Enterprise and Housing Development Act:

5 A. "affordable housing infrastructure project"
6 means infrastructure projects needed to support housing for
7 low- or moderate-income residents;

8 ~~[A.]~~ B. "authority" means the New Mexico finance
9 authority;

10 ~~[B.]~~ C. "board" means the opportunity enterprise
11 and housing development review board;

12 ~~[G.]~~ D. "department" means the economic development
13 department;

14 ~~[D.]~~ E. "economic development opportunities" means
15 the advancement of an environmentally sustainable economic
16 development goal of the state as determined by the authority,
17 in coordination with the department, and includes the creation
18 of jobs, the provision of needed services and commodities to
19 diverse communities across the state and the increase of tax
20 and other revenue collections resulting from the enterprise
21 development project;

22 ~~[E.]~~ F. "enterprise assistance" means opportunity
23 enterprise financing, an opportunity enterprise lease or an
24 opportunity enterprise loan;

25 ~~[F.]~~ G. "enterprise development project" means a

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1 commercial real estate development project primarily occupied
2 by businesses unrelated to the opportunity enterprise partner
3 that involves the purchase, planning, designing, building,
4 surveying, improving, operating, furnishing, equipping or
5 maintaining of land, buildings or infrastructure to create or
6 expand economic development opportunities within the state;

7 ~~[G. "fund" means the opportunity enterprise~~
8 ~~revolving fund;]~~

9 H. "housing development assistance" means a loan
10 for workforce development housing projects or affordable
11 housing infrastructure projects;

12 I. "housing development partner" means a domestic
13 corporation, a general partnership, a limited liability
14 company, a limited partnership, a public benefit corporation, a
15 nonprofit entity or any other private business entity or
16 combination thereof that the authority determines is or will be
17 engaged in a project that creates or expands housing within the
18 state and is eligible for housing development assistance
19 pursuant to the Opportunity Enterprise and Housing Development
20 Act;

21 J. "housing development project" means an
22 affordable housing infrastructure project or a workforce
23 development housing project;

24 ~~[H.]~~ K. "opportunity enterprise partner" means a
25 domestic corporation, a general partnership, a limited

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1 liability company, a limited partnership, a public benefit
2 corporation, a nonprofit entity or other private business
3 entity or combination thereof that the authority determines is
4 or will be engaged in an enterprise that creates or expands
5 economic development opportunities within the state and is
6 eligible for enterprise assistance pursuant to the Opportunity
7 Enterprise and Housing Development Act;

8 [~~F.~~] L. "opt-in agreement" means an agreement
9 entered into among the authority, the department and a county,
10 municipality or school district that ensures compliance with
11 all local zoning, permitting and other land use rules and that
12 provides for payments in lieu of taxes to the county,
13 municipality or school district; [~~and~~]

14 [~~J.~~] M. "payment in lieu of taxes" means the total
15 annual payment paid as compensation for the tax impact of an
16 enterprise development project, in an amount negotiated and
17 determined in the opt-in agreement among the authority, the
18 department and the county, school district or, if applicable,
19 municipality where the enterprise development project is
20 located in the same proportional amount as property tax
21 revenues are normally distributed to those recipients;

22 N. "workforce development housing" means below-
23 market housing addressing demand for workforce housing for
24 middle-income workers in proximity to employment centers; and

25 O. "workforce development housing project" means a

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1 residential real estate development project that involves the
2 purchase, planning, designing, building, surveying, improving,
3 operating, furnishing, equipping or maintaining of land,
4 buildings or infrastructure that provides housing, including
5 housing that provides the option of home ownership."

6 SECTION 3. Section 6-34-3 NMSA 1978 (being Laws 2022,
7 Chapter 57, Section 3) is amended to read:

8 "6-34-3. NEW MEXICO FINANCE AUTHORITY--POWERS--DUTIES.--
9 To create or expand economic development opportunities and
10 housing within the state, the authority may:

11 A. acquire, whether by construction, purchase, gift
12 or lease, and hold title to or other interest in an enterprise
13 development project or housing development project;

14 B. provide opportunity enterprise financing to
15 opportunity enterprise partners and collect costs and fees
16 associated with that financing;

17 C. enter into a contract to lease property to an
18 opportunity enterprise partner and collect rent, costs and fees
19 associated with that lease;

20 D. make loans to opportunity enterprise partners
21 and collect payments, including principal, interest costs and
22 fees associated with that loan;

23 E. make loans to housing development partners and
24 collect payments, including principal, interest costs and fees
25 associated with those loans;

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1 ~~[E.]~~ F. sell or otherwise dispose of any property
2 obtained as a result of an enterprise development project or a
3 housing development project; provided that proceeds received
4 shall be deposited in the opportunity enterprise revolving fund
5 or the housing development revolving fund, respectively;

6 ~~[F.]~~ G. make, execute and enforce all contracts
7 necessary to carry out the provisions of the Opportunity
8 Enterprise and Housing Development Act;

9 ~~[G.]~~ H. take legal action available to the
10 authority to recover public money or other public resources if
11 an opportunity enterprise partner or housing development
12 partner defaults on its obligations to the authority;

13 ~~[H.]~~ I. enter into joint powers agreements or other
14 agreements with a state agency or governmental entity, as the
15 authority determines to be appropriate for such purpose;

16 ~~[I.]~~ J. adopt rules relating to the use of the
17 opportunity enterprise revolving fund and the housing
18 development revolving fund necessary to carry out the
19 provisions of the Opportunity Enterprise and Housing
20 Development Act subject to approval of the New Mexico finance
21 authority oversight committee; and

22 ~~[J.]~~ K. enter into opt-in agreements where the
23 enterprise development project is located to facilitate the
24 development of an enterprise development project; provided that
25 if included in the opt-in agreement, the authority shall make

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1 payments in lieu of taxes to a county, municipality or school
2 district to offset the tax impact of an enterprise development
3 project."

4 SECTION 4. Section 6-34-5 NMSA 1978 (being Laws 2022,
5 Chapter 57, Section 5) is amended to read:

6 "6-34-5. OPPORTUNITY ENTERPRISE AND HOUSING DEVELOPMENT
7 REVIEW BOARD--CREATED--MEMBERSHIP.--

8 A. The "opportunity enterprise and housing
9 development review board" is created. The authority shall
10 provide necessary administrative services to the board.

11 B. The board is composed of the following [~~twelve~~]
12 fourteen members:

13 (1) the secretary of economic development or
14 the secretary's designee;

15 (2) the secretary of finance and
16 administration or the secretary's designee;

17 (3) the secretary of general services or the
18 secretary's designee;

19 (4) the state treasurer or the state
20 treasurer's designee;

21 (5) the [~~state auditor or the state auditor's~~]
22 executive director of the New Mexico mortgage finance authority
23 or the executive director's designee;

24 (6) two members appointed by the governor who
25 shall have experience in the housing, building or development

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1 sector;

2 [~~(6)~~] (7) one representative appointed by the
3 council of government organizations within the state; and

4 [~~(7)~~] (8) six public members appointed by the
5 New Mexico legislative council who shall have experience in any
6 one or more of the following:

7 (a) the banking and finance industry;

8 (b) commercial or industrial credit;

9 (c) private equity, venture capital or
10 mutual fund investments;

11 (d) commercial real estate development;

12 (e) engineering, construction and
13 construction management;

14 (f) organized labor;

15 (g) urban planning; or

16 (h) environmentally sustainable
17 construction and development.

18 C. Members of the board appointed pursuant to
19 Paragraphs [~~(6)~~ and] (7) and (8) of Subsection B of this
20 section shall serve for staggered terms of six years; provided
21 that the initial term of members appointed pursuant to
22 Paragraph [~~(7)~~] (8) of Subsection B of this section may be for
23 a term of less than six years, as determined by the New Mexico
24 legislative council, to ensure staggered membership of the
25 board. Members of the board shall serve until their successors

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1 are appointed. A member of the board appointed pursuant to
2 Paragraph (6), [~~or~~] (7) or (8) of Subsection B of this section
3 may be removed from the board by the appointing authority for
4 failure to attend three consecutive meetings or other cause. A
5 vacancy on the board of an appointed member shall be filled by
6 appointment by the original appointing authority for the
7 remainder of the unexpired term of office; provided that a
8 member who is removed pursuant to this section shall be
9 ineligible for reappointment.

10 D. Members of the board appointed pursuant to
11 Paragraphs (6) [~~and (7)~~] through (8) of Subsection B of this
12 section shall:

13 (1) be governed by the provisions of the
14 Governmental Conduct Act; and

15 (2) not hold any office or employment in a
16 political party.

17 E. The members shall select a chair, vice chair and
18 other officers that the board deems necessary, who shall serve
19 a term of two years. The board shall maintain minutes of all
20 meetings of the board, and all meetings shall be held pursuant
21 to the Open Meetings Act."

22 SECTION 5. Section 6-34-6 NMSA 1978 (being Laws 2022,
23 Chapter 57, Section 6) is amended to read:

24 "6-34-6. OPPORTUNITY ENTERPRISE AND HOUSING DEVELOPMENT
25 REVIEW BOARD--POWERS.--

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A. The board shall:

- (1) meet quarterly and at the call of the chair;
- (2) receive a list of executed contracts for enterprise assistance and housing development assistance;
- (3) recommend to the authority application forms and procedures for ~~[approval]~~ the prioritization of enterprise ~~[assistance]~~ development projects and housing development projects;
- (4) ~~[develop]~~ review standards and procedures for the approval of proposed contracts ~~[for enterprise assistance]~~ as needed;
- (5) make recommendations to the authority of potential enterprise development projects and housing development projects;
- (6) determine whether the use of enterprise assistance and housing development assistance is a prudent expenditure of public funds and report to the legislature annually on that determination; and
- (7) make recommendations to the authority of potential rulemaking, application or lending changes to ensure transparent and efficient processes for carrying out the provisions of the Opportunity Enterprise and Housing Development Act.

B. The board and the department shall coordinate

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1 to:

2 (1) provide outreach services to local
3 governments and potential opportunity enterprise partners;

4 (2) evaluate opportunity enterprise partners
5 and eligible enterprise development projects for suitability
6 for enterprise assistance; [~~and~~]

7 (3) evaluate housing development partners and
8 eligible housing development projects for suitability for
9 housing development assistance; and

10 [~~(3)~~] (4) obtain input and information
11 relevant to carrying out the purposes of the Opportunity
12 Enterprise and Housing Development Act from recipients of
13 enterprise assistance and housing development assistance, local
14 governments and local communities."

15 SECTION 6. Section 6-34-7 NMSA 1978 (being Laws 2022,
16 Chapter 57, Section 7) is amended to read:

17 "6-34-7. RULEMAKING--BOARD.--The board shall adopt rules
18 necessary to carry out the provisions of the Opportunity
19 Enterprise and Housing Development Act to:

20 A. establish procedures for applying and qualifying
21 for enterprise assistance and housing development assistance;

22 B. establish economic development goals [~~for the~~
23 ~~state~~] in consultation with the department;

24 C. govern the application procedures and
25 requirements for enterprise assistance and housing development

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1 assistance;

2 D. determine how to select and prioritize
3 applications for enterprise assistance to be ~~[funded by]~~
4 recommended to the authority; ~~and~~

5 E. prioritize projects that are in political
6 subdivisions that are implementing zoning reforms that support
7 housing development projects;

8 F. determine how to select and prioritize
9 applications for housing development assistance to be
10 recommended to authority; and

11 ~~[E-]~~ G. provide safeguards to protect public money
12 and other public resources subject to the Opportunity
13 Enterprise and Housing Development Act."

14 SECTION 7. Section 6-34-8 NMSA 1978 (being Laws 2022,
15 Chapter 57, Section 8) is amended to read:

16 "6-34-8. ENTERPRISE ASSISTANCE--GENERAL REQUIREMENTS.--

17 A. An application for enterprise assistance shall:

18 (1) describe the scope and plans of the
19 enterprise development project or proposed use of leased
20 property by the applicant;

21 (2) demonstrate that the enterprise
22 development project or lease will create or expand economic
23 development opportunities within the state;

24 (3) demonstrate that the proposed enterprise
25 development project or lease will comply with applicable state

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1 and federal law;

2 (4) provide sufficient evidence that other
3 means of financing a proposed enterprise development project
4 are unavailable or insufficient; and

5 (5) include other documentation or
6 certifications that the authority deems necessary.

7 B. The authority, in coordination with the
8 department, shall:

9 (1) make the application publicly available,
10 including a description of the scope and plans of the proposed
11 enterprise development project or lease;

12 (2) ensure that all information relating to
13 the enterprise development project or lease and the evaluation
14 of the application is made publicly available, unless the
15 information includes trade secrets or information that is
16 otherwise unable to be disclosed as provided by law;

17 (3) prioritize applications for enterprise
18 assistance that demonstrate local support and financial need;
19 and

20 (4) prior to providing enterprise assistance,
21 determine that:

22 (a) the proposed enterprise development
23 project or lease will create or expand economic development
24 opportunities within the state;

25 (b) the proposed enterprise development

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1 project or lease will comply with applicable state and federal
2 law; and

3 (c) other means of financing a proposed
4 enterprise development project are unavailable or insufficient.

5 C. A contract to provide enterprise assistance
6 shall:

7 (1) define the roles and responsibilities of
8 the authority and the opportunity enterprise partner;

9 (2) provide clawback or recapture provisions
10 that protect the public investment in the event of a default on
11 the contract;

12 (3) provide a finance plan detailing the
13 financial contributions and obligations of the authority and
14 opportunity enterprise partner;

15 (4) require an opportunity enterprise partner
16 to provide guarantees, letters of credit or other acceptable
17 forms of security, as determined by the authority;

18 (5) specify how rents, if applicable, will be
19 collected and accounted for;

20 (6) specify how debts incurred on behalf of
21 the opportunity enterprise partner will be repaid; and

22 (7) provide that, in the event of a default,
23 the authority may:

24 (a) elect to take possession of the
25 property, including the succession of all right, title and

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1 interest in the enterprise development project; and

2 (b) terminate the lease or cease any
3 further funding and exercise any other rights and remedies that
4 may be available.

5 D. The authority may require any document,
6 guarantee or certification from a recipient of enterprise
7 assistance that the authority determines is necessary to ensure
8 economic development opportunities are advanced by the
9 enterprise assistance.

10 E. The authority may prioritize an application for
11 enterprise assistance for a proposed enterprise development
12 project located in a nonurban community.

13 F. Enterprise assistance shall only be provided if
14 compliant with the Opportunity Enterprise and Housing
15 Development Act. All contracts for enterprise assistance shall
16 be provided to the board no later than thirty days from the
17 execution of that contract.

18 G. As used in this section, "nonurban community"
19 means a municipality with a population of less than [~~forty~~]
20 sixty thousand according to the most recent federal decennial
21 census or the unincorporated area of a county."

22 SECTION 8. Section 6-34-10 NMSA 1978 (being Laws 2022,
23 Chapter 57, Section 10) is amended to read:

24 "6-34-10. OPPORTUNITY ENTERPRISE LEASE--TERMS.--

25 A. The authority shall receive and review

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1 applications for opportunity enterprise leases. If the
2 authority determines that an opportunity enterprise partner is
3 eligible for an opportunity enterprise lease, the authority may
4 enter into a contract to lease an available property to that
5 opportunity enterprise partner in exchange for rent payments,
6 subject to the terms provided by this section. The authority
7 may enter into agreements with the general services department
8 or other state agency or entity approved by the board to
9 administer an opportunity enterprise lease.

10 B. An opportunity enterprise lease shall:

11 (1) require that the property be used solely
12 to create and expand economic development opportunities;

13 (2) provide, based on the fair market value of
14 the property, for:

15 (a) sufficient rent; and

16 (b) other securities to ensure the
17 maintenance and protection of the property;

18 (3) require that the property be properly
19 insured for the duration of the lease; and

20 (4) be bound only by the terms of the lease
21 and any rules promulgated pursuant to the provisions of the
22 Opportunity Enterprise and Housing Development Act.

23 C. Receipts from the payment of rent owed pursuant
24 to an opportunity enterprise lease shall be deposited in the
25 opportunity enterprise revolving fund."

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1 SECTION 9. Section 6-34-11 NMSA 1978 (being Laws 2022,
2 Chapter 57, Section 11) is amended to read:

3 "6-34-11. OPPORTUNITY ENTERPRISE LOANS--TERMS--
4 REPAYMENT.--

5 A. The authority shall receive and review
6 applications for opportunity enterprise loans. The authority
7 may make loans to opportunity enterprise partners if:

- 8 (1) funding is available;
- 9 (2) the opportunity enterprise partner meets
10 credit and identification criteria, as determined by the
11 authority;

12 (3) the opportunity enterprise partner
13 certifies that the proceeds of the loan will be used for an
14 enterprise development project; and

15 (4) the opportunity enterprise partner meets
16 any other requirement for an opportunity enterprise loan.

17 B. The opportunity enterprise partner shall provide
18 the authority with ongoing information requested by the
19 authority.

20 C. Opportunity enterprise loans shall be made for
21 loan periods of no ~~[less than fifteen years and no]~~ more than
22 thirty years, as determined by the authority. The loans shall
23 bear an annual interest rate of no less than zero percent.

24 D. Beginning no later than the third anniversary of
25 the funding date of the loan, payment on the outstanding

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1 principal of the loan shall be due on a schedule determined by
2 the authority for the remainder of the loan period.

3 E. Receipts from the repayment of opportunity
4 enterprise loans shall be deposited in the opportunity
5 enterprise revolving fund.

6 F. No provision in an opportunity enterprise loan
7 or the evidence of indebtedness of the loan shall include a
8 penalty or premium for prepayment of the balance of the
9 indebtedness.

10 G. The authority may provide a guarantee to a
11 federally insured financial institution on behalf of a person
12 who would otherwise be eligible as an opportunity enterprise
13 partner; provided that the proceeds of any guaranteed loan are
14 used for an enterprise development project. A guarantee
15 pursuant to this subsection shall be provided subject to terms
16 approved by the board."

17 SECTION 10. Section 6-34-12 NMSA 1978 (being Laws 2022,
18 Chapter 57, Section 12) is amended to read:

19 "6-34-12. OPPORTUNITY ENTERPRISE REVOLVING FUND--
20 CREATED--PERMITTED USES.--

21 A. The "opportunity enterprise revolving fund" is
22 created within the authority. The fund consists of
23 appropriations, distributions, transfers, gifts, grants,
24 donations, bequests, fees collected, payments of principal and
25 interest on opportunity enterprise loans, income from rents

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1 paid on opportunity enterprise leases, income from investment
2 of the fund and any other money distributed or otherwise
3 allocated to the fund. Balances in the fund at the end of a
4 fiscal year shall not revert to the general fund except as
5 provided in Section ~~[13 of the Opportunity Enterprise Act]~~
6 6-34-13 NMSA 1978. The fund shall be administered by the
7 authority as a separate account and may consist of such
8 subaccounts as the authority deems necessary to carry out the
9 purposes of the fund.

10 B. Money in the opportunity enterprise revolving
11 fund shall be used by the authority to carry out the provisions
12 of the Opportunity Enterprise and Housing Development Act,
13 including to:

14 (1) pay the reasonably necessary
15 administrative costs, payments in lieu of taxes and other costs
16 and fees incurred by the authority in carrying out the
17 provisions of that act;

18 (2) provide opportunity enterprise financing;
19 and

20 (3) make opportunity enterprise loans.

21 C. Money in the opportunity enterprise revolving
22 fund that is not needed for immediate disbursement may be
23 deposited or invested in the same manner as other funds
24 administered by the authority."

25 SECTION 11. Section 6-34-13 NMSA 1978 (being Laws 2022,

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1 Chapter 57, Section 13) is amended to read:

2 "6-34-13. EXCESS REVENUE TO THE GENERAL FUND--OPPORTUNITY
3 ENTERPRISE REVOLVING FUND--TRANSFER.--

4 A. If, on June 30, 2028 and by June 30 of each
5 fiscal year thereafter, the balance in the opportunity
6 enterprise revolving fund for that fiscal year exceeds the
7 annual average amount by an amount greater than six percent,
8 the amount in excess of six percent shall be transferred to the
9 general fund. If there is not an excess amount pursuant to
10 this section, no transfer shall be made from the fund.

11 B. As used in this section, "annual average amount"
12 means the total balance of the opportunity enterprise revolving
13 fund in the immediately preceding five fiscal years, divided by
14 five."

15 SECTION 12. A new section of the Opportunity Enterprise
16 and Housing Development Act is enacted to read:

17 "[NEW MATERIAL] HOUSING DEVELOPMENT ASSISTANCE--
18 REQUIREMENTS.--

19 A. An application for housing development
20 assistance shall:

21 (1) describe the scope and plans of the
22 housing development project;

23 (2) demonstrate that the housing development
24 project will create or expand housing within the state;

25 (3) demonstrate that the proposed housing

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1 development project will comply with applicable state and
2 federal law;

3 (4) provide sufficient evidence that other
4 means of financing a proposed housing development project are
5 unavailable or insufficient; and

6 (5) include other documentation or
7 certifications that the authority deems necessary.

8 B. The authority shall:

9 (1) make the application publicly available,
10 including a description of the scope and plans of the proposed
11 housing development project;

12 (2) ensure that all information relating to
13 the housing development project and the evaluation of the
14 application is made publicly available, unless the information
15 is otherwise unable to be disclosed as provided by law;

16 (3) prioritize applications for housing
17 development assistance that demonstrate local support and
18 financial need; and

19 (4) prior to providing housing development
20 assistance, determine that:

21 (a) the proposed housing development
22 project will create or expand housing within the state;

23 (b) the proposed housing development
24 project will comply with applicable state and federal law; and

25 (c) other means of financing a proposed

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1 housing development project are unavailable or insufficient."

2 SECTION 13. A new section of the Opportunity Enterprise
3 and Housing Development Act is enacted to read:

4 "[NEW MATERIAL] HOUSING DEVELOPMENT LOANS--TERMS--
5 REPAYMENT.--

6 A. The authority shall receive and review
7 applications for housing development loans. The authority may
8 make loans to housing development partners if:

- 9 (1) funding is available;
- 10 (2) the housing development partner meets
11 credit and identification criteria, as determined by the
12 authority;
- 13 (3) the housing development partner certifies
14 that the proceeds of the loan will be used for a housing
15 development project; and
- 16 (4) the housing development partner meets any
17 other requirement for a housing development project loan as
18 determined by the authority.

19 B. The housing development partner shall provide
20 the authority with ongoing information requested by the
21 authority.

22 C. Housing development loans shall be made for loan
23 periods of no more than forty years, as determined by the
24 authority. The loans shall bear an annual interest rate of no
25 less than zero percent.

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1 D. Receipts from the repayment of housing
2 development loans shall be deposited in the housing development
3 revolving fund.

4 E. No provision in a housing development loan or
5 the evidence of indebtedness of the housing development loan
6 shall include a penalty or premium for prepayment of the
7 balance of the indebtedness.

8 F. The authority may prioritize an application for
9 housing development assistance for a proposed housing
10 development project located in a nonurban community. As used
11 in this subsection, "nonurban community" means a municipality
12 with a population of less than sixty thousand according to the
13 most recent federal decennial census or the unincorporated area
14 of a county."

15 SECTION 14. A new section of the Opportunity Enterprise
16 and Housing Development Act is enacted to read:

17 "[NEW MATERIAL] HOUSING DEVELOPMENT REVOLVING FUND--
18 CREATED.--

19 A. The "housing development revolving fund" is
20 created within the authority. The fund consists of
21 appropriations, distributions, transfers, gifts, grants,
22 donations, bequests, fees collected, payments of principal and
23 interest on housing development assistance, income from
24 investment of the fund and any other money distributed or
25 otherwise allocated to the fund. Balances in the fund at the

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1 end of a fiscal year shall not revert to any other fund. The
2 fund shall be administered by the authority as a separate
3 account and may consist of such subaccounts as the authority
4 deems necessary to carry out the purposes of the fund.

5 B. Money in the housing development revolving fund
6 shall be used by the authority to carry out the provisions of
7 the Opportunity Enterprise and Housing Development Act,
8 including to:

9 (1) pay the reasonably necessary
10 administrative costs and other costs and fees incurred by the
11 authority in carrying out the provisions of that act; and

12 (2) provide housing development assistance.

13 C. Money in the housing development revolving fund
14 that is not needed for immediate disbursement may be deposited
15 or invested in the same manner as other funds administered by
16 the authority."

17 SECTION 15. Section 6-34-14 NMSA 1978 (being Laws 2022,
18 Chapter 57, Section 14) is amended to read:

19 "6-34-14. REPORTS.--

20 A. [~~Prior to October~~] On December 1, [2023] 2024
21 and each succeeding [~~October~~] December 1 thereafter, the
22 authority shall submit a report to the governor, the
23 legislature, the legislative finance committee, the New Mexico
24 finance authority oversight committee, the revenue
25 stabilization and tax policy committee and other appropriate

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1 legislative interim committees. The report shall provide
2 details regarding [~~enterprise~~] assistance from the opportunity
3 enterprise revolving fund and housing development revolving
4 fund provided pursuant to the Opportunity Enterprise and
5 Housing Development Act. The report shall include:

6 (1) the total amount of enterprise assistance
7 provided for enterprise development projects and state revenue
8 derived from each enterprise development project;

9 (2) the total number of loans made pursuant to
10 the Opportunity Enterprise and Housing Development Act; the
11 amount of those loans; the number of loan recipients in a
12 delinquent status, in default [~~or in the process of filing~~] or
13 that have filed for bankruptcy;

14 (3) an overview of the industries and types of
15 business entities operating pursuant to an enterprise
16 development project or lease;

17 (4) the total number of employees currently
18 employed directly or indirectly related to an enterprise
19 development project or lease;

20 (5) the total number of affordable housing
21 units and workforce development housing units supported by
22 housing development assistance; and

23 [~~(5)~~] (6) any recommended changes to the
24 Opportunity Enterprise and Housing Development Act to ensure
25 proper safeguards for public money and to ensure enterprise

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1 assistance [~~is~~] and housing development assistance are able to
2 efficiently advance the economic development interests of the
3 state.

4 B. Information obtained by the authority regarding
5 applicants for enterprise [~~financing~~] assistance and housing
6 development assistance is confidential and not subject to
7 inspection pursuant to the Inspection of Public Records Act;
8 provided that nothing shall prevent the authority from
9 disclosing:

10 (1) information required in the report
11 pursuant to this section;

12 (2) public information pursuant to Paragraphs
13 (1) and (2) of Subsection B of Section [~~8 of the Opportunity~~
14 ~~Enterprise Act~~] 6-34-8 NMSA 1978 and Paragraphs (1) and (2) of
15 Subsection B of Section 12 of this 2024 act; and

16 (3) the names of persons that have received
17 enterprise assistance and housing development assistance and
18 the [~~amount~~] amounts of [~~enterprise~~] assistance provided
19 pursuant to the Opportunity Enterprise and Housing Development
20 Act."

21 SECTION 16. Section 6-34-15 NMSA 1978 (being Laws 2022,
22 Chapter 57, Section 15) is amended to read:

23 "6-34-15. CONFLICT OF INTEREST.--

24 A. If a member of the board or an employee of the
25 authority has an interest, either direct or indirect, in an

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1 application or contract relating to enterprise assistance or
2 housing development assistance, that interest shall be
3 disclosed to the authority and the board in writing. The
4 person having such interest shall not participate in actions by
5 the board or the authority with respect to that conflict.

6 B. A person who has a conflict of interest and
7 participates in an action involving that conflict of interest
8 or knowingly fails to notify the authority and the board in
9 writing of that conflict is guilty of a misdemeanor and upon
10 conviction shall be sentenced pursuant to the provisions of
11 Section 31-19-1 NMSA 1978."

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