

# SENATE, No. 1159

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JANUARY 31, 2022

**Sponsored by:**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**Senator LINDA R. GREENSTEIN**

**District 14 (Mercer and Middlesex)**

**SYNOPSIS**

Requires EDA to provide low interest loans to qualified small businesses and not-for-profit corporations during state of emergency declared by Governor.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 2/10/2022)

1 AN ACT concerning certain loans administered by the New Jersey  
2 Economic Development Authority, amending P.L.1992, c.16 and  
3 P.L.2011, c.201, and repealing section 3 of P.L.2019, c.240.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 4 of P.L.1992, c.16 (C.34:1B-7.13) is amended to  
9 read as follows:

10 4. The authority may use the moneys in the fund to pay  
11 principal of, premium, if any, and interest on bonds or notes, which  
12 shall be entitled "Economic Recovery Fund Bonds or Notes," as  
13 appropriate, the proceeds, or net proceeds, of which shall be  
14 deposited into the fund, or used for purposes of the fund, and  
15 moneys in the fund, including money received from the sale of  
16 bonds shall, in such manner as is determined by the authority, and  
17 pursuant to subsections d., e., and f. of this section, be used for the  
18 financing of projects as set forth in section 3 of P.L.1974, c.80  
19 (C.34:1B-3) and to establish:

20 a. an economic growth account for programs and initiatives,  
21 which will support and invest in small and medium-size businesses  
22 and other entities engaged in economic, community, and workforce  
23 development that have the greatest potential for creating jobs and  
24 stimulating economic growth through such elements including, but  
25 not limited to:

26 (1) a Statewide lending pool and guarantee pool for small  
27 business, whether directly or through a community development  
28 financial institution;

29 (2) a business composite bond guarantee;

30 (3) a fund to further supplement the export finance program of  
31 the authority to provide direct loans and working capital necessary  
32 for New Jersey businesses to compete in the global market, real  
33 estate partnerships;

34 (4) a Statewide composite bond pool to assist municipalities in  
35 acquiring needed financing for capital expenditures;

36 (5) financial assistance to assist municipalities, municipal  
37 entities, counties, county entities, regional entities, State  
38 instrumentalities, and not-for-profit local economic and community  
39 development entities to execute programs and initiatives to  
40 stimulate community and economic development;

41 (6) a venture, seed, or angel capital fund for start-up costs for  
42 businesses developing new concepts and inventions;

43 (7) a fund to assist businesses, either directly or through a not-  
44 for-profit or for-profit entity with expansion or transition to a new  
45 business model in such areas including, but not limited to,

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 manufacturing retooling to improve quality, to reduce production  
2 costs and to train employees to apply the latest technology;

3 (8) a "Main Street Business Assistance Program" to provide  
4 guarantees and loans to small and mid-size businesses and not-for-  
5 profit entities to stimulate the economy. Any loans provided by the  
6 authority to small-size businesses and not-for-profit corporations,  
7 throughout the duration of the public health emergency and state of  
8 emergency established under Executive Order No. 103 of 2020,  
9 shall be at a low rate of interest, as determined by the authority;

10 (9) in consultation with the Department of Labor and Workforce  
11 Development and the Office of the Secretary of Higher Education, a  
12 fund to support and invest in innovative workforce development  
13 approaches and programs, including those that could benefit  
14 individuals directly, either undertaken directly by the authority or  
15 through a governmental, not-for-profit, or for-profit entity, that  
16 align with targeted industries as defined by the authority's board or  
17 support a high-demand occupation;

18 (10) a fund to provide grants, financing, or equity to  
19 collaborations between large corporations, small-to-medium sized  
20 businesses, academic institutions, government entities, or not-for-  
21 profit entities, where one of the purposes of the collaboration is to  
22 stimulate community or economic development;

23 (11) a fund to provide grants, financing, or equity in innovation  
24 centers, research centers, incubators, and accelerators, and other  
25 similar innovation-oriented entities, which are focused on the  
26 targeted industries as defined by the authority's board or support  
27 increasing diversity and inclusion within the State's entrepreneurial  
28 economy; the fund may also be used to pay for membership fees, or  
29 other similar arrangements, for the authority to join or participate in  
30 such innovation-oriented entities;

31 (12) a fund to provide grants or competition prizes to fund  
32 initiative-based activities which stimulate growth in targeted  
33 industries as defined by the authority's board or supports increasing  
34 diversity and inclusion within the State's entrepreneurial economy;  
35 this fund may also support not-for-profit industry, trade, and labor  
36 organization initiatives; and

37 (13) a fund to provide grants or competition prizes, either directly  
38 or through a not-for-profit entity, that is consistent with economic  
39 development priorities as defined by the authority's board, where  
40 funds have been specifically allocated to the economic recovery  
41 fund for this purpose, including but not limited to an appropriation  
42 or transfer from another government entity.

43 The authority may promulgate rules and regulations for the  
44 effective implementation of the "Main Street Business Assistance  
45 Program." Notwithstanding any provision of the "Administrative  
46 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
47 contrary, the authority may adopt, immediately upon filing with the  
48 Office of Administrative Law, such regulations as are necessary to

1 implement the provisions of this act, which shall be effective for a  
2 period not to exceed 12 months following enactment, and may  
3 thereafter be amended, adopted, or readopted by the authority in  
4 accordance with the requirements of the "Administrative Procedure  
5 Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The authority may use  
6 the economic growth account for the planning, designing, acquiring,  
7 constructing, reconstructing, improving, equipping, and furnishing  
8 by small and medium-size businesses and not-for-profit  
9 corporations of a project as defined in section 3 of P.L.1974, c. 80  
10 (C.34:1B-3), including, but not limited to, grants for working  
11 capital and meeting payroll requirements, upon such terms and  
12 conditions as the authority shall deem reasonable;

13 b. an economic development infrastructure program account,  
14 which shall provide for the financing and development of  
15 infrastructure and transportation projects, including but not limited  
16 to ports, terminal and transit facilities, roads and airports, parking  
17 facilities used in connection with transit facilities, and related  
18 facilities, including public-private partnerships, that are integral to  
19 economic growth;

20 c. an account for a cultural, recreational, fine and performing  
21 arts, military and veterans memorial, historic preservation project  
22 and tourism facilities and improvements program, which shall  
23 provide for the financing and development of cultural, recreational,  
24 fine and performing arts, military and veterans memorial, historic  
25 preservation and tourism projects, including partnerships with  
26 public, private and nonprofit entities;

27 d. an account, into which shall be deposited an amount not less  
28 than \$45,000,000, out of the total amounts deposited or credited to  
29 the fund from the proceeds of the sale of Economic Recovery Fund  
30 Bonds or Notes, for the financing of capital facilities for primary  
31 and secondary schools in the State for the purpose of the  
32 renovation, repair or alteration of existing school buildings, the  
33 construction of new school buildings or the conversion of existing  
34 school buildings to other instructional purposes.

35 (1) Of the amount deposited in the account, not less than  
36 \$25,000,000 shall be deposited in the "Public School Facilities  
37 Code Compliance Loan Fund" established pursuant to section 4 of  
38 P.L.1993, c.102 (C.34:1B-7.23).

39 (2) Of the amount deposited in the account, not less than  
40 \$20,000,000 shall be deposited in the "Public School Facilities  
41 Loan Assistance Fund" established pursuant to section 5 of  
42 P.L.1993, c.102 (C.34:1B-7.24);

43 e. an environmental cleanup assistance account, into which  
44 shall be deposited an amount not less than \$10,000,000, out of the  
45 total amounts deposited or credited to the fund from the proceeds of  
46 the sale of Economic Recovery Fund Bonds or Notes, to provide  
47 financial assistance to the persons and other entities entitled to  
48 apply for financial assistance pursuant to P.L.1993, c.139; and

1 f. an account, into which shall be deposited an amount not less  
2 than \$15,000,000, out of the total amounts deposited or credited to  
3 the fund from the proceeds of the sale of Economic Recovery Fund  
4 Bonds or Notes, for the financing of shore restoration, maintenance,  
5 monitoring, protection and preservation projects pursuant to the  
6 shore protection master plan prepared by the Department of  
7 Environmental Protection pursuant to P.L.1978, c.157.  
8 (cf: P.L.2020, c.156, s.116)

9  
10 2. Section 1 of P.L.2011, c.201 (C.34:1B-241.1) is amended to  
11 read as follows:

12 1. As used in P.L.2011, c.201 (C.34:1B-241.1 et seq.):

13 "Authority" means the New Jersey Economic Development  
14 Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

15 "Department" means the Department of Agriculture established  
16 pursuant to R.S.4:1-1.

17 "Eligible farming operation" means two or more business entities  
18 that are engaged in farming operations in the State, that are  
19 applying together for participation in the small business loan  
20 program established pursuant to section 2 of **[P.L.2019, c.240]**  
21 **P.L.2011, c.201** (C.34:1B-241.2), and that, at the time of the  
22 application, are independently owned and operated, participate in an  
23 agricultural commodity or product marketing and development  
24 program operated by the Department of Agriculture, and satisfy  
25 other criteria that may be established by the authority pursuant to  
26 **[P.L.2019, c.240]** **P.L.2011, c.201** (C.34:1B-241.1 et seq.).

27 "Eligible operating expense" means the normal, day-to-day  
28 operating expenditures made by an eligible small business,  
29 including, but not limited to: payroll; rent; utilities; insurance;  
30 marketing expenses; and purchases of goods and services.

31 "Eligible small business" means a business entity that, at the time  
32 of application for participation in the small business loan program  
33 established pursuant to section 2 of P.L.2011, c.201 (C.34:1B-  
34 241.2), is independently owned and operated, operates primarily  
35 within this State, and which satisfies other criteria that may be  
36 established by the authority. "Eligible small business" shall include  
37 a qualified dairy **[farmers and]** farmer, an eligible farming  
38 **[operations]** operation, and a qualified not-for-profit corporation.

39 "Farm equipment" means equipment used directly for farming  
40 operations.

41 "Farming operations" mean any activities connected to the  
42 commercial growing, harvesting, processing, producing, or raising  
43 of agricultural products in the State, including crops, dairy animals,  
44 livestock, fur-bearing animals, poultry, bees, crops used in  
45 fermented alcoholic beverages and wine, and any products  
46 therefrom, including organic agricultural products; aquacultural  
47 products; horticultural products; and silviculture products.

1 "Qualified dairy farmer" means a person or business entity that  
2 produces valued-added dairy products and that, at the time of  
3 application for participation in the small business loan program and  
4 receipt of a loan under the program, is independently owned and  
5 operated, operates primarily within this State, and satisfies other  
6 criteria that may be established by the authority.

7 "Qualified not-for-profit corporation" means a not-for-profit  
8 corporation that the authority determines meets the identical  
9 guarantee and loan eligibility criteria established under the "Main  
10 Street Business Assistance Program," pursuant to subsection a. of  
11 section 4 of P.L.1992, c.16 (C.34:1B-7.13).

12 "Value-added dairy product" means a dairy product created by a  
13 qualified dairy farmer by means of a change in the physical state of  
14 a dairy commodity, and shall include, but not be limited to, cheese,  
15 cultured sour cream, yogurt, kefir, butter, ice cream, evaporated  
16 milk, condensed milk, and concentrated milk.

17 (cf: P.L.2019, c.240, s.1)

18  
19 3. Section 2 of P.L.2011, c.201 (C.34:1B-241.2) is amended to  
20 read as follows:

21 2. a. The authority shall maintain and administer a small  
22 business loan program for the purpose of providing loans to eligible  
23 small businesses. The authority shall consult with the department  
24 in administering the small business loan program as it applies to:  
25 (1) an eligible small business that is an eligible farming operation;  
26 (2) defining the types of dairy products that shall be considered as  
27 value-added dairy products under the small business loan program,  
28 not inconsistent with section 1 of **[P.L.2019, c.240]** P.L.2011,  
29 c.201 (C.34:1B-241.1); (3) developing small business loan program  
30 guidelines for qualified dairy farmers and eligible farming  
31 operations; and (4) developing materials to provide to qualified  
32 dairy farmers seeking to expand value-added dairy production in  
33 this State.

34 b. (1) Loans made through the small business loan program  
35 may be made to an eligible small business. The loan funds may be  
36 applied to any aspect of the eligible small business that supports its  
37 capital purchases, employee training, and salaries for new positions  
38 as determined by the authority.

39 (2) Notwithstanding paragraph (1) of **[subsection b. of this**  
40 **section]** this subsection, loans made by the authority to an eligible  
41 farming operation may only be applied to aspects of the eligible  
42 farming operation that support the farming operation's farm  
43 equipment purchases, as determined by the authority. Farm  
44 equipment purchased from loan funds made pursuant to **[P.L.2019,**  
45 **c.240]** P.L.2011, c.201 (C.34:1B-241.1 et seq.) shall be used by all  
46 of the business entities in the eligible farming operation.

1 (3) Two or more business entities engaged in farming operations  
2 in the State seeking to participate in the loan program established  
3 pursuant to subsection a. of this section shall submit a joint  
4 application in a form as the authority shall require and shall include  
5 information as the authority determines is necessary in  
6 consideration of a loan authorized pursuant to **[P.L.2019, c.240]**  
7 P.L.2011, c.201 (C.34:1B-241.1 et seq.).

8 (4) Notwithstanding paragraph (1) of this subsection, loans  
9 made by the authority to an eligible small business, throughout the  
10 duration of the public health emergency and state of emergency  
11 established under Executive Order No. 103 of 2020, shall only be  
12 used by the eligible small business for eligible operating expenses.

13 c. (1) In order to receive a loan pursuant to the small business  
14 loan program, a business, at the time of application, shall provide  
15 proof that it is an eligible small business and shall enter into a small  
16 business loan agreement with the authority.

17 (2) In order to receive a loan from the authority pursuant to  
18 **[P.L.2019, c.240]** P.L.2011, c.201 (C.34:1B-241.1 et seq.), a  
19 business entity engaged in farming operations in the State, at the  
20 time of application, shall provide proof, in a manner determined by  
21 the authority, that it and at least one other business entity meet the  
22 requirements to be an eligible farming operation, including, but not  
23 limited to, proof that each business entity is engaged in farming  
24 operations in the State and will use the farm equipment purchased  
25 with the loan funds.

26 d. The authority shall review and may approve applications for  
27 the small business loan program.

28 e. A business seeking to participate in the small business loan  
29 program shall submit an application in a form as the authority shall  
30 require. The application shall include information the authority  
31 shall determine is necessary in consideration of the provisions of  
32 P.L.2011, c.123 (C.52:14B-21.1 et seq.).

33 f. Loans to an eligible small business under this section shall:

34 (1) be made pursuant to a small business loan agreement made  
35 pursuant to subsection c. of this section;

36 (2) bear interest at rates and terms deemed appropriate by the  
37 authority, except for loans made throughout the duration of the  
38 public health emergency and state of emergency established under  
39 Executive Order No. 103 of 2020, which shall be made at a low rate  
40 of interest, as determined by the authority; and

41 (3) contain other terms and conditions considered appropriate by  
42 the authority that are consistent with the purposes of P.L.2011,  
43 c.201 (C.34:1B-241.1 et seq.) and with rules and regulations  
44 adopted by the authority pursuant to section 3 of P.L.2011, c.201  
45 (C.34:1B-241.3).

46 The provisions of a loan agreement with an eligible farming  
47 operation shall include, but need not be limited to, a statement of an  
48 eligible farming operation's proportional shares of ownership, its

1 farm equipment usage and maintenance responsibilities, and its loan  
2 repayment responsibilities for any loan proceeds received under the  
3 loan program.

4 g. The authority may, in its discretion, require an eligible small  
5 business that receives a loan under the small business loan program  
6 administered pursuant to P.L.2011, c.201 (C.34:1B-241.1 et seq.) to  
7 submit an audited financial statement to the authority in order to  
8 ensure the business's continued vitality. An audited financial  
9 statement from an eligible farming operation shall include each  
10 business entity in the eligible farming operation using the farm  
11 equipment.

12 h. The authority may, either through the adoption of rules and  
13 regulations, or through the terms of the small business loan  
14 agreement made pursuant to subsection c. of this section, establish  
15 terms governing the incidence of default by a recipient of a loan  
16 under the small business loan program, administered pursuant to  
17 P.L.2011, c.201 (C.34:1B-241.1 et seq.).

18 i. In determining whether to provide a loan to an eligible small  
19 business, the authority shall consider, along with other criteria that  
20 the authority in its discretion deems appropriate, whether the  
21 business commits to increasing its full-time employment level in the  
22 State.

23 (cf: P.L.2019, c.240, s.2)

24

25 4. Section 3 of P.L.2011, c.201 (C.34:1B-241.3) is amended to  
26 read as follows:

27 3. The authority may adopt such rules and regulations, pursuant  
28 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-  
29 1 et seq.), as may be necessary to effectuate the purposes of  
30 P.L.2011, c.201 (C.34:1B-241.1 et seq.). The authority shall  
31 consult with the department concerning the adoption of rules and  
32 regulations applicable to loans made to qualified dairy farmers and  
33 eligible farming operations.

34 (cf: P.L.2011, c.201, s.3)

35

36 5. Section 3 of P.L.2019, c.240 is repealed.

37

38 6. This act shall take effect immediately.

39

40

41

STATEMENT

42

43 This bill expands a small business loan program (loan program)  
44 administered by the New Jersey Economic Development Authority  
45 (authority) to include an "eligible not-for-profit corporation," as  
46 that term is defined in the bill, as a qualified small business eligible  
47 for participation in the loan program. Loans offered under the loan  
48 program to qualified small businesses during the Coronavirus



1 disease of 2019 are to be made at a low rate of interest, as  
2 determined by the authority. Under this loan program, the loan  
3 proceeds are only to be used by eligible small businesses during this  
4 period for an “eligible operating expense,” as that term is defined in  
5 the bill.

6 Further, the bill provides that loans offered during the  
7 Coronavirus disease of 2019 to small-size businesses and not-for-  
8 profit corporations qualifying under the “Main Street Business  
9 Assistance Program” (assistance program), also administered by the  
10 authority, are to be made at a low rate of interest, as determined by  
11 the authority.

12 The bill transfers to section 3 of P.L.2011, c.201 (C.34:1B-  
13 241.3) existing rulemaking authority added by section 3 of  
14 P.L.2019, c.240 and repeals this duplicative provision.