

TITLE 2 PUBLIC FINANCE
CHAPTER 92 LEDA RECOVERY GRANT
PART 1 GENERAL PROVISIONS

2.92.1.1 ISSUING AGENCY: Economic development department.
[2.92.1.1 NMAC – N/E, 4/16/2021]

2.92.1.2 SCOPE: All persons or entities applying for grants for the reimbursement of rent, lease or mortgage payments pursuant to House Bill 11 of 1st Session of the 55th Legislature (hereafter, the “LEDA Recovery Grants Legislation”).
[2.92.1.2 NMAC - N/E, 4/16/2021]

2.92.1.3 STATUTORY AUTHORITY: Section 5-10-16 NMSA 1978 (hereafter, the “LEDA Recovery Grants Legislation”).
[2.92.1.3 NMAC - N/E, 4/16/2021]

2.92.1.4 DURATION: 180 days.
[2.92.1.4 NMAC - N/E, 4/16/2021; A/E, 7/23/21]

2.92.1.5 EFFECTIVE DATE: April 16, 2021, unless a later date is cited at the end of a section.
[2.92.1.5 NMAC - N/E, 4/16/2021]

2.92.1.6 OBJECTIVE: Explanatory note: On March 11, 2020, in response to the presence in New Mexico of a highly contagious respiratory novel coronavirus disease known as COVID-19, Governor Michelle Lujan Grisham declared that a public health emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked all power and authority under the All Hazards Emergency Management Act. On March 23, 2020, the New Mexico department of health, pursuant to the All Hazards Emergency Management Act, issued a public health emergency order to close all businesses and non-profit entities except for those deemed essential, while also limiting mass gatherings due to COVID-19. Since March 23, 2020, the Public Health Emergency Order has been extended and modified to address the ongoing threat of COVID-19. On February 26, 2021, during the 1st Session of the 55th Legislature, the Governor signed into law House Bill 11 (hereafter, the “LEDA Recovery Grants Legislation”), whereby two hundred million dollars (\$200,000,000) was appropriated from the state of New Mexico general fund to the New Mexico economic development department (“department” or “NMEDD”) for expenditure in fiscal years 2021 through 2023 (“LEDA Grant Funds”) to provide grants, through the NMFA, for the reimbursement of rent, lease or mortgage payments. These rules govern the implementation and administration of the LEDA Recovery Grant Fund enacted under the LEDA Recovery Grants Legislation, and do not apply to other programs established by the economic development department.
[2.92.1.6 NMAC – N/E, 4/16/2021]

2.92.1.7 DEFINITIONS:

A. “Full-time-equivalent employee or FTE” is defined as an employee who works an average of 40 hours or more per week from their qualifying date of hire throughout the quarterly qualification period. The hours of employees who work fewer than 40 hours are calculated as proportions of a single FTE and aggregated. An FTE must be paid wages that are reported to the department of workforce solutions quarterly and subject to unemployment taxes. To qualify, the FTE must be “net new”, representing:

(1) a growth of FTE beyond the “baseline” FTE count, with “baseline” defined as the number of FTE reported on December 31, 2020 or any subsequent quarterly ES903A filed with the department of workforce solutions prior to application whichever is lower;

(2) a growth of FTE beyond the number for which the recovery entity received total or partial grant payments in prior quarters; and

(3) a growth of FTE beyond the number in the quarter immediately preceding the request for a subsequent quarterly payment and for which a quarterly unemployment insurance report was filed with the department of workforce solutions.

B. “Qualifying date of hire” is a date on or after April 1, 2021 and falling within a quarterly department of workforce solutions reporting period prior to application for a quarterly payment subsequent to the initial payment.

C. “Loss in revenue” is defined as a decline in revenue for one or more quarters in 2020 compared with the same quarter or quarters in 2019. If the recovery entity is required to submit gross receipts taxes for these revenues, the recovery entity must provide the tax documentation supplied to the taxation and revenue department demonstrating this decline. If the recovery entity is not subject to gross receipts taxes, the decline must be demonstrated through other documentation as provided through rule by the New Mexico finance authority. [2.92.1.7 NMAC - N/E, 4/16/2021]

2.92.1.8 MAXIMUM EMPLOYEE COUNT: The maximum employee count in House Bill 11 of “fewer than 75 people employed at any of the business’s business locations” for a business to qualify as a recovery entity includes all employees, both full- and part-time employees. [2.92.1.8 NMAC - N/E, 4/16/2021]

2.92.1.9 PER JOB CALCULATION: Pursuant to the Local Economic Development Act, the recovery grant shall be accompanied by net new FTE job creation. As part of the initial application, the recovery entity shall estimate the net new FTE to be created from the initial qualifying date of hire through March 31, 2022 and provide the job titles for those positions, the FTE calculations and the total average hourly wages. The maximum amount of the recovery grant to be provisionally awarded and set aside for disbursement shall be determined by the following calculation of funds per net new FTE job created:

- A.** The base amount of the grant per net new FTE job created: \$10,000;
- B.** If the recovery entity has a loss in revenue of at least twenty percent and less than forty percent: \$12,000;
- C.** If the recovery entity has a loss in revenue of at least forty percent and less than sixty percent: \$14,000;
- D.** If the recovery entity has a loss in revenue of at least sixty percent and less than eighty percent: \$16,000; or
- E.** If the recovery entity has a loss in revenue equal to or in excess of eighty percent: \$18,000.
- F.** Wage bonus:
 - (1)** If the average wage of all the recovery entity’s net new FTE is over \$13 per hour, the recovery entity may receive a bonus of \$1,000 per net new FTE for which a base payment is calculated.
 - (2)** If the average wage of the recovery entity’s net new FTE is over \$17 per hour, the recovery entity may receive an additional \$1,000 per net new FTE for which a base payment is calculated.
- G.** The maximum grant amount per net new FTE job created is \$20,000.
- H.** The maximum number of FTE that may be included in the recovery entity’s estimates in the application is equal to the maximum number of FTE employed by the recovery entity in any quarterly period from January 1, 2019 to the date of application and documented through the ES903A filed with the department of workforce solutions.

[2.92.1.9 NMAC - N/E, 4/16/2021; A/E, 7/23/2021]

2.92.1.10 QUARTERLY PAYMENTS: Quarterly payments to recovery entities shall be determined by taking the initial per job calculation above and multiplying it by the number of FTE being claimed by the recovery entity for a given quarterly period. The per job amount may be reduced if the New Mexico finance authority and the economic development department determine the actual average wages paid fall below the thresholds for either or both of the \$1,000 bonuses to a degree that indicates a reasonable attempt was not made to pay the wages estimated by the recovery entity in its grant application.

[2.92.1.10 NMAC - N/E, 4/16/2021]

2.92.1.11 QUARTERLY PAYMENT LIMIT: Quarterly payments to recovery entities are limited to the lesser of twenty-five percent of the provisional grant award or the eligible amount under the requirements and calculations set forth in this rule. The maximum amount that may be distributed in total to a recovery entity under the LEDA Recovery Grant project is \$100,000.

[2.92.1.11 NMAC - N/E, 4/16/2021]

2.92.1.12 DOCUMENTATION REQUIRED FOR PROOF OF QUALIFYING NET NEW FTE JOBS CREATED:

A. A recovery entity must provide its quarterly unemployment insurance filings with the department of workforce solutions (ES903A) at time of application for the quarter ending March 31, 2021 and, if applicable, the most recent quarterly ES903A filed with the department of workforces solutions available at the time of application.

B. A recovery entity provided an initial quarterly payment must provide the most recent quarterly filing of the ES903A prior to additional funds being released for a subsequent quarterly payment. The recovery entity must also provide documentation, in a form and manner to be prescribed by the New Mexico finance authority, to list the net new FTE requested to qualify for additional funds with the associated average hourly wage, hours worked per week and the total average wage for all net new FTE.

C. Upon request, the recovery entity shall submit to the New Mexico finance authority and the economic development department additional payroll documentation to validate the calculations and request.

[2.92.1.12 NMAC - N/E, 4/16/2021]

2.92.1.13 DOCUMENTATION REQUIRED FOR PROOF OF PAYMENT OF RENT, LEASE OR MORTGAGE: To prove payment of rent, mortgage or lease, a recovery entity must complete the affirmation provided by the economic development department to the New Mexico finance authority for distribution to recovery entities, along with proof of payment including a bank statement, canceled check, credit card receipt, ACH transaction or other forms of proof generally accepted. The rent, lease or mortgage payments must be for the recovery entity's place of business within New Mexico and must be payments related to land or buildings. Equipment rentals or leases do not qualify under the Local Economic Development Act.

[2.92.1.13 NMAC - N/E, 4/16/2021]

HISTORY OF 2.92.1 NMAC: [RESERVED]