An act to amend Sections 12100.82 and 12100.83 of the Government Code, relating to small businesses, and making an appropriation therefor, to take effect immediately, bill related to the budget.
THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 12100.82 of the Government Code is amended to read:

12100.82. Unless the context requires otherwise, the following definitions in this section shall govern the construction of this article:

(a) “Applicant” means any California taxpayer, including, but not limited to, an individual, corporation, nonprofit organization, cooperative, or partnership, who submits an application for the program.

(b) “California Small Business COVID-19 Relief Grant Program” or “program” means the grant program established in Section 12100.83.

(c) “CalOSBA” or “office” means the Office of Small Business Advocate within the Governor’s Office of Business and Economic Development.

(d) “Director” means the Director of the Office of the Small Business Advocate.

(e) “Fiscal agent” means a California-based Community Development Financial Institution (CDFI) capable of online and mobile application development, customer support, document validation, impact analysis, grant agreements, and awards disbursement, as well as marketing, engagement, and strategic partnerships with a network of CDFIs and nonprofits for implementation.

(f) “Fiscal sponsorship” means an existing nonprofit offering to provide its tax exemption and associated benefits to another group, such as a charitable project.

(g) (1) “Qualified small business” means a business or nonprofit that meets all of the following criteria, as confirmed by the office or fiscal agent through review of revenue declines, other relief funds received, credit history, tax returns, and bank account validation:

(A) Is one of the following:
   (i) A sole proprietor, independent contractor, 1099 employee, C-corporation, S-corporation, cooperative, limited liability company, partnership, or limited partnership, with an annual gross revenue of less than two million five hundred thousand dollars ($2,500,000), five million dollars ($5,000,000), but greater than one thousand dollars ($1,000), in the 2019 taxable year.
   (ii) A registered 501(c)(3), 501(c)(6), or 501(c)(19) nonprofit entity that had an annual gross revenue of less than two million five hundred thousand dollars ($2,500,000), five million dollars ($5,000,000), but greater than one thousand dollars ($1,000), in the 2019 taxable year.
   (iii) A division or department of a larger organization or entity, such as a tribal government, city, county, or city and county.
   (iv) An organization that is fiscally sponsored by a nonprofit corporation.

(B) Began operating in the state prior to June 1, 2019.

(C) Is currently active and operating, or has a clear plan to reopen when the state permits reopening of the business.

(D) Has been impacted by COVID-19 and the related health and safety restrictions, such as business interruptions or business closures incurred as a result of the COVID-19 pandemic.

(E) Provides organizing documents, including a 2019 federal tax return or Form 990, and an affidavit from the board or authorizing official from the governing authority, detailing the governance structure; or a copy of an official filing.
with the Secretary of State or with the local municipality, as applicable, including, but not limited to, Articles of Incorporation, Certificate of Organization, Fictitious Name of Registration, or Government-Issued Business License.

(F) Provides an acceptable form of government-issued photo identification, where applicable.

(G) Is the entity, location, or franchise with the highest revenue in a group.

(2) Notwithstanding paragraph (1), “qualified small business” shall not include any of the following:

(A) Businesses without a physical presence in the state and not headquartered in the state.

(B) Nonprofit businesses not registered as a 501(c)(3), 501(c)(6), or 501(c)(19).

(C) Government entities, other than Native American tribes, or elected official officers.

(D) Businesses primarily engaged in political or lobbying activities, regardless of whether the entity is registered as a 501(c)(3), 501(c)(6), or 501(c)(19).

(E) Passive businesses, investment companies, and investors who file a Schedule E on their tax returns.

(F) Financial institutions or businesses primarily engaged in the business of lending, such as banks, finance companies, and factoring companies.

(G) Businesses engaged in any activity that is unlawful under federal, state, or local law.

(H) Businesses that restrict patronage for any reason other than capacity.

(I) Speculative businesses.

(J) Businesses with any owner of greater than 10 percent of the equity interest in it who meets one or more of the following criteria:

   (i) The owner has, within the prior three years, been convicted of or had a civil judgment rendered against the owner, or has had commenced any form of parole or probation, including probation before judgment, for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state, or local public transaction or contract under a public transaction, violation of federal or state antitrust or procurement statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

   (ii) The owner is presently indicted for or otherwise criminally or civilly charged by a federal, state, or local government entity, with commission of any of the offenses enumerated in clause (i).

(K) Affiliated companies, as defined in Section 121.103 of Title 13 of the Code of Federal Regulations.

(L)
(J) Other businesses determined by the office, consistent with the limitations and exclusions set in Rounds 1 and 2 of the COVID-19 Relief Grant Program.

(h) “Rounds 1 and 2 of the COVID-19 Relief Grant Program” means the first two rounds of grant allocations awarded, prior to the enactment of this article, through the COVID-19 Relief Grant that is administered by CalOSBA and that is funded by Executive Order No. E 20/21-182.

SEC. 2. Section 12100.83 of the Government Code is amended to read:

12100.83. (a) The California Small Business COVID-19 Relief Grant Program is hereby created within CalOSBA.

(b) The program shall be under the direct authority of the director.

(c) The purpose of the program is to provide grants to qualified small businesses affected by COVID-19 in order to support their continued operation.

(d) The office or its fiscal agent shall consult with local, regional, state, and federal public and private entities, as applicable, that share a similar mission to support the needs of small businesses and nonprofits in California.

(e) The office may contract with a fiscal agent, or amend an existing contract with a fiscal agent to meet the requirements of this article, to carry out the programs, at a rate of no more than 5 percent of administrative and programs funds appropriated by the Legislature for the purposes of this article.

(f) The office shall allocate grants to qualified small businesses that meet the requirements of this article.

(g)(1) The office shall conduct marketing and outreach for equitable awareness and the distribution of grants that includes all of the following:

(A) Engaging multiple partners, including, but not limited to, business and nonprofit associations, chambers of commerce, economic development corporations, and other nonprofit mission-based organizations, and organizations with nonprofit expertise.

(B) Providing access to technical assistance services covering all counties in the state and in multiple languages to reach non-English-speaking individuals in all counties in the state.

(C) Building awareness throughout the state, including in underserved and underbanked communities, by collaborating with multiple community groups to distribute program information, applicant access through multiple branded partner portals, and advertising and social media outreach through owned, paid, and earned media channels.

(2) For the qualified small business program, outreach in advance of open application rounds shall be conducted for a minimum of three weeks prior to opening each application round. Following each round, the fiscal agent shall assess service gaps and address outreach deficiencies as necessary to improve program equity.

(3) The fiscal agent shall provide information on how to connect to additional support resources to each applicant whether or not the applicant is selected as a grant recipient.

(h) Grants shall be prioritized, to the extent permissible under state and federal equal protection laws, in accordance with the following criteria:
(1) Geographic distribution based on COVID-19 health and safety restrictions following California’s Blueprint for a Safer Economy and county status and the Regional Stay Home Order.

(2) Industry sectors most impacted by the pandemic, including, but not limited to, those identified as in the North American Industry Classification System codes beginning with:
   - (A) 61 – Educational Services.
   - (B) 71 – Arts, Entertainment, and Recreation.
   - (C) 72 – Accommodation and Food Services.
   - (D) 315 – Apparel Manufacturing.
   - (E) 448 – Clothing and Clothing Accessory Stores.
   - (F) 451 – Sporting Goods, Hobby, Musical Instrument, and Book Stores.
   - (G) 485 – Transit and Ground Passenger Transportation.
   - (H) 487 – Scenic and Sightseeing Transportation.
   - (I) 512 – Motion Picture and Sound Recording Industries.
   - (J) 812 – Personal and Laundry Services.

(3) Nonprofit mission services most impacted by the pandemic, including, but not limited to, emergency food provisions, emergency housing stability, childcare, and workforce development.

(4) Underserved small business groups that have faced historic barriers to access to capital and networks, and are defined as businesses majority owned and operated on a daily basis by women, minorities or persons of color, and veterans, or businesses in rural and low-wealth communities.

(5) Disadvantaged communities tracked by socioeconomic indicators that may include, but are not limited to, low to moderate income, poverty rates, unemployment, educational attainment, and other disadvantaging factors that limit access to capital and other resources.

(i) (1) Grants to qualified small businesses shall be awarded in a minimum of three rounds, which includes a closed round, in the following amounts:
   - (A) Five thousand dollars ($5,000) for applicants with an annual gross revenue of one thousand dollars ($1,000) to one hundred thousand dollars ($100,000) in the 2019 taxable year.
   - (B) Fifteen thousand dollars ($15,000) for applicants with an annual gross revenue greater than one hundred thousand dollars ($100,000), and up to one million dollars ($1,000,000), in the 2019 taxable year.
   - (C) Twenty five thousand dollars ($25,000) for applicants with an annual gross revenue greater than one million dollars ($1,000,000), and up to two million five hundred thousand dollars ($2,500,000), five million dollars ($5,000,000), in the 2019 taxable year.

(2) The office, or its fiscal agent, may conduct, pursuant to the existing eligibility, criteria, or other requirements from Rounds 1 and 2 of the COVID-19 Relief Grant Program, a closed round for existing applicants from those two rounds in order to award up to 25 percent of any newly allocated funds while initial outreach for future open rounds is conducted.
(3) Rounds 1 and 2 of the COVID-19 Relief Grant Program shall not be considered a round for purposes of meeting the minimum round requirements described in paragraph (1).

(j) (1) A total of all remaining funds from the original allocation of fifty million dollars ($50,000,000) of program funds shall be allocated in one or more rounds to eligible nonprofit cultural institutions, institutions, including those associated with educational institutions, shall be allocated in one or more rounds to eligible nonprofit cultural institutions.

(2) For purposes of this subdivision, “eligible nonprofit cultural institution” means a registered 501(c)(3) nonprofit entity that satisfies the criteria for a qualified small business pursuant to subdivision (f) of Section 12100.82, but with no limitation on annual gross revenue, and that is in one of the following North American Industry Classification System codes:

(A) 453920 – Art Dealers.
(B) 711110 – Theater Companies and Dinner Theaters.
(C) 711120 – Dance Companies.
(D) 711130 – Musical Groups and Artists.
(E) 711190 – Other Performing Arts Companies.
(F) 711310 – Promoters of Performing Arts, Sports, and Similar Events with Facilities.
(G) 711320 – Promoters of Performing Arts, Sports, and Similar Events without Facilities.
(H) 711410 – Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures.
(I) 711510 – Independent Artists, Writers, and Performers.
(J) 712110 – Museums.
(K) 712120 – Historical Sites.
(L) 712130 – Zoos and Botanical Gardens.
(M) 712190 – Nature Parks & Other Similar Institutions.

(3) Grants to eligible nonprofit cultural institutions shall be prioritized on documented percentage revenue declines based on a reporting period comparing Q2 and Q3 of 2020 versus Q2 and Q3 of 2019.

(4) Eligible nonprofit cultural institutions shall complete a new application for the grants allocated under this subdivision, even if they already applied in Rounds 1 and 2 of the COVID-19 Relief Grant Program.

(2) Required verifying documentation: Form 990 verification, signed affidavit from governing body, or fiscal sponsor agreement to validate entities.

(3) For purposes of this subdivision, “eligible nonprofit cultural institution” means a nonprofit entity that is organized primarily for the purpose of producing, promoting, or presenting the arts, history, heritage, or humanities to the public; or, organized for identifying, documenting, interpreting, and preserving cultural resources and that satisfies the criteria for a qualified small business applicant pursuant to subdivision (g) of Section 12100.82.

(4) (A) The office shall not regrant funding to repeat eligible nonprofit cultural institution awardees unless the program is under subscribed and all entities seeking a first-time grant have been awarded.

(B) Pursuant to subparagraph (A), the office shall:
(i) Prioritize grants to repeat eligible nonprofit cultural institution awardees based on documented percentage revenue declines that are based on a reporting period comparing 2020 versus 2019.

(ii) Prioritize organizations with the largest operating losses relative to their budget and past performance.

(5) Eligible nonprofit cultural institutions include theater companies, dance companies, musical groups, symphony and opera companies, performing arts companies, arts & education organizations, art and history museums, historical sites, historical societies, zoos, aquariums, science centers, children’s museums, botanical gardens, nature parks, and cultural centers.

(6) The office shall give the first priority of grant awards to nonprofit cultural institutions that did not previously receive a grant from the California Small Business COVID-19 Relief Grant Program.

(7) Grants shall not be awarded to an eligible nonprofit cultural institution under this subdivision even if the eligible nonprofit cultural institution has otherwise been awarded a grant under subdivision (i).

(8) Grants under this subdivision shall be awarded in the following amounts:

(A) Five thousand dollars ($5,000) for applicants with an annual gross revenue of one thousand dollars ($1,000) to one hundred thousand dollars ($100,000) in the 2019 taxable year.

(B) Fifteen thousand dollars ($15,000) for applicants with an annual gross revenue greater than one hundred thousand dollars ($100,000), and up to one million dollars ($1,000,000) in the 2019 taxable year.

(C) Twenty-five thousand dollars ($25,000) for applicants with an annual gross revenue greater than one million dollars ($1,000,000) in the 2019 taxable year.

(9) Grant moneys awarded under this section shall only be used for costs resulting from the COVID-19 pandemic and related health and safety restrictions, or business interruptions or closures incurred as a result of the COVID-19 pandemic, including the following:

(1) Employee expenses, including payroll costs, health care benefits, paid sick, medical, or family leave, and insurance premiums.

(2) Working capital and overhead, including rent, utilities, mortgage principal, and interest payments, but excluding mortgage prepayments, and debt obligations, including principal and interest, incurred before March 1, 2020.

(3) Costs associated with reopening business operations after being fully or partially closed due to state-mandated COVID-19 health and safety restrictions and business closures.

(4) Costs associated with complying with COVID-19 federal, state, or local guidelines for reopening with required safety protocols, including, but not limited to, equipment, plexiglass barriers, outdoor dining, PPE supplies, testing, and employee training expenses.

(5) Any other COVID-19-related expenses not already covered through grants, forgivable loans, or other relief through federal, state, or county or city programs.

(6) Any other COVID-19-related costs that are not human resource expenses for the state share of Medicaid, employee bonuses, severance pay, taxes, legal settlements,
personal expenses, or other expenses unrelated to COVID-19 impacts, repairs from damages already covered by insurance, or reimbursement to donors for donated items or services.

(l) (1) Applicants may self-identify race, gender, and ethnicity. Within seven business days of the close of each application period, the office shall post the aggregate data, as available. Within 15 business days of the close of each application period, the office shall post data by legislative district, as available. Within 45 business days, the office shall post the actual awarded information, as available. All information shall be posted on the Office of Small Business Advocate (CalOSBA) Governor’s Office of Business and Economic Development (GO-Biz) internet website and CalOSBA GO-Biz shall provide an electronic copy of the information to the relevant fiscal and policy committees of the Legislature.

(2) The office shall report to the Legislature the number of grants and dollar amounts awarded for each of the following categories:
(A) Race and ethnicity.
(B) Women-owned.
(C) Veteran-owned.
(D) Located in a disadvantaged community pursuant to paragraph (5) of subdivision (h).
(E) Located in a rural area.
(F) County.
(G) State Senate district.
(H) State Assembly district.
(I) Nonprofits, including by geography.
(J) Cultural institutions, including by geography.
(K) Nonprofit cultural institutions, including by geography.

(m) The fiscal agent shall issue Forms 1099 and otherwise adhere to tax reporting guidelines regardless of whether the grants are excluded from gross income for purposes of the Personal Income Tax Law (Part 10 (commencing with Section 17001)) or the Corporation Tax Law (Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code).

SEC. 3. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.
LEGISLATIVE COUNSEL’S DIGEST

Bill No.
as introduced, ______.
General Subject: California Small Business COVID-19 Relief Grant Program.

Existing law establishes the Office of Small Business Advocate (CalOSBA) within the Governor’s Office of Business and Economic Development (GO-Biz) to serve as the principal advocate on behalf of small businesses, including to represent the views and interests of small businesses, among other duties. Existing law establishes various grant programs within CalOSBA, including the California Small Business COVID-19 Relief Grant Program to assist qualified small businesses affected by COVID-19. Existing law defines the operative terms of that grant program, including the definition of a “qualified small business.” Existing law continuously appropriates a specified sum from the General Fund for purposes of that grant program.

This bill would redefine certain definitions of that program, including the definition of “qualified small business,” and would additionally define new terms. The bill would additionally require any qualified small business, as defined, to provide an affidavit from the board or authorizing official, as specified.

This bill would expand the definition of “qualified business” to include tribal governments, cities, and counties; fiscally sponsored organizations; and organizations with an annual gross revenue of up to $5,000,000. By expanding the definition of what entity may be considered a “qualified small business” to include a greater pool of applicants, this bill would create an appropriation.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.