

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0896.02 Thomas Morris x4218

HOUSE BILL 21-1302

HOUSE SPONSORSHIP

Herod and Daugherty,

SENATE SPONSORSHIP

Winter,

House Committees
Business Affairs & Labor

Senate Committees

A BILL FOR AN ACT

101 CONCERNING A GRANT PROGRAM FOR SMALL BUSINESSES AFFECTED
102 BY ECONOMIC HARDSHIP CAUSED BY THE COVID-19 PANDEMIC,
103 AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Senate Bill 20-222, enacted in 2020, created a grant program financed through the federal "Coronavirus Aid, Relief, and Economic Security Act" to support small businesses suffering from economic impacts of COVID-19 and related public health restrictions. The bill appropriates \$15 million from the general fund to continue the grant

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

program and modifies the criteria pursuant to which grants are awarded.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 24-48.5-126, **amend**
3 (1), (2), (3)(a), (3)(b), (3)(c), (4), (5), and (6); and **add** (3)(e) and (3)(f)
4 as follows:

5 **24-48.5-126. Small business COVID-19 grant program -**
6 **legislative declaration - definitions - reporting - repeal.**

7 (1) **Legislative declaration.** The general assembly hereby:

8 (a) Finds that:

9 (I) ~~In response to the COVID-19 pandemic that spread to many~~
10 ~~states, including Colorado, in February of 2020, Congress enacted~~
11 BEFORE THE EFFECTIVE DATE OF THIS SECTION, AS AMENDED, THIS
12 SECTION PROVIDED FOR A SMALL BUSINESS GRANT PROGRAM FINANCED BY
13 MONEY PROVIDED PURSUANT TO the FEDERAL "Coronavirus Aid, Relief,
14 and Economic Security Act", Pub.L. 116-136, also referred to as the
15 "CARES Act", ~~to provide emergency assistance to state, local, and tribal~~
16 ~~governments~~ WHICH MONEY HAD TO BE EXPENDED BY DECEMBER 30,
17 2020; AND

18 (II) ~~The CARES Act established the coronavirus relief fund~~
19 ~~(CRF) and appropriated one hundred fifty billion dollars to the CRF for~~
20 ~~distribution, in part, to the states to cover costs that:~~ MANY SMALL
21 BUSINESSES ADVERSELY AFFECTED BY COVID-19 WERE UNABLE TO
22 SECURE FINANCING PURSUANT TO THIS SECTION BEFORE THE DECEMBER
23 30, 2020, DEADLINE;

24 (A) ~~Are necessary expenditures incurred due to the public health~~
25 ~~emergency with respect to the COVID-19 pandemic;~~

1 ~~(B) Were not accounted for in the budget most recently approved~~
2 ~~as of March 27, 2020, for the state; and~~

3 ~~(C) Were incurred during the period that begins on March 1, 2020,~~
4 ~~and ends on December 30, 2020;~~

5 ~~(H) Approximately one billion six hundred seventy-four million~~
6 ~~dollars was transferred from the CRF to Colorado's state government and,~~
7 ~~in his executive order D 2020 070, dated May 18, 2020, the governor~~
8 ~~transferred seventy million dollars of that money to the general fund for~~
9 ~~disbursement by the general assembly;~~

10 ~~(IV) The United States department of the treasury has issued~~
11 ~~guidance on states' use of money allocated from the CRF, including the~~
12 ~~"Coronavirus Relief Fund Frequently Asked Questions" document issued~~
13 ~~on May 4, 2020, and updated on May 28, 2020, in which the department~~
14 ~~indicated that "eligible expenditures may include expenditures related to~~
15 ~~the provision of grants to small businesses to reimburse the costs of~~
16 ~~business interruption caused by required closures. . . . A program that is~~
17 ~~aimed at assisting small businesses with the costs of business interruption~~
18 ~~caused by required closures should be tailored to assist those businesses~~
19 ~~in need of such assistance. The amount of a grant to a small business to~~
20 ~~reimburse the costs of business interruption caused by required closures~~
21 ~~would also be an eligible expenditure under section 601(d) of the Social~~
22 ~~Security Act, as outlined in the Guidance";~~

23 (b) Determines that to help reduce the spread of COVID-19 and
24 in compliance with stay-at-home and safer-at-home executive and public
25 health orders, many businesses have shut down for extended periods and
26 residents throughout the state have remained in their homes and
27 experienced a significant decline in their household incomes, all of which

1 has resulted in economic distress for many small businesses; and

2 (c) Declares that:

3 (I) A grant program that provides grants to small businesses that
4 face economic hardship caused by the COVID-19 pandemic ~~which~~
5 ~~assistance was not accounted for in the state's budget most recently~~
6 ~~approved as of March 27, 2020, is a necessary expenditure to address the~~
7 ~~public health emergency with respect to the COVID-19 pandemic.~~

8 CONTINUES TO BE A PRESSING PRIORITY THAT MERITS THE ALLOCATION OF
9 GENERAL FUND REVENUES; AND

10 (II) IN ORDER TO ENSURE A MORE EQUITABLE ECONOMIC
11 RECOVERY, IT IS NECESSARY TO SIMPLIFY THE DOCUMENTATION AND
12 VERIFICATION REQUIRED OF BUSINESSES TO DEMONSTRATE NEED,
13 PARTICULARLY FOR SMALLER AWARDS AND SMALL BUSINESSES.

14 (2) **Definitions.** As used in this section, unless the context
15 otherwise requires:

16 (a) "Authority" means the Colorado housing and finance authority
17 created in part 7 of article 4 of title 29.

18 ~~(b) "CARES Act" means the federal "Coronavirus Aid, Relief,~~
19 ~~and Economic Security Act", Pub.L. 116-136, as amended.~~

20 ~~(c)~~(b) "Commission" means the Colorado economic development
21 commission created in section 24-46-102 (2).

22 ~~(d)~~(c) "COVID-19" means the coronavirus disease caused by the
23 severe acute respiratory syndrome coronavirus 2, also known as
24 SARS-CoV-2.

25 (d) "ECONOMICALLY DISTRESSED AREA" INCLUDES A STATE
26 OPPORTUNITY ZONE, AN ENTERPRISE ZONE, OR A HISTORICALLY
27 UNDERUTILIZED BUSINESS ZONE.

1 (e) "ENTERPRISE ZONE" MEANS AN AREA DESIGNATED AS AN
2 ENTERPRISE ZONE PURSUANT TO SECTION 39-30-103.

3 (e) (f) "Grantor" means a nonprofit or community-based lender,
4 approved by the authority, that underwrites and distributes a grant to a
5 small business pursuant to the program.

6 (g) "HISTORICALLY UNDERUTILIZED BUSINESS ZONE" MEANS AN
7 AREA DESIGNATED BY THE UNITED STATES SMALL BUSINESS
8 ADMINISTRATION AS A HISTORICALLY UNDERUTILIZED BUSINESS ZONE
9 UNDER THE UNITED STATES SMALL BUSINESS ADMINISTRATION'S
10 HUBZONE PROGRAM.

11 (f) (h) "Office" means the Colorado office of economic
12 development created in section 24-48.5-101.

13 (g) (i) "Program" means the small business COVID-19 grant
14 program established in subsection (3) of this section.

15 (h) (j) (I) "Rural area" means:

16 (H) (A) A county with a population of less than fifty thousand
17 people; ~~according to the most recently available population statistics of~~
18 ~~the United States bureau of the census;~~

19 (H) (B) A municipality with a population of less than fifty
20 thousand people ~~according to the most recently available population~~
21 ~~statistics of the United States bureau of the census;~~ that is located ten
22 miles or more from a municipality with a population of more than fifty
23 thousand people; or

24 (H) (C) The unincorporated part of a county located ten miles or
25 more from a municipality with a population of more than fifty thousand
26 people. ~~according to the most recently available population statistics of~~
27 ~~the United States bureau of the census.~~

1 (II) FOR PURPOSES OF THIS SUBSECTION (2)(j), POPULATION IS
2 DETERMINED ACCORDING TO THE MOST RECENTLY AVAILABLE
3 POPULATION STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS.

4 (i) (k) "Small business" means a person that:

5 (I) Is a for-profit sole proprietorship or for-profit domestic entity,
6 as that term is defined in section 7-90-102 (13), or a nonprofit corporation
7 or other organization type specified by the office and the authority; ~~and~~
8 ~~as permitted under section 601 (d) of the federal "Social Security Act", as~~
9 ~~amended, as added by section 5001 of the CARES Act;~~

10 (II) Has fewer than twenty-five employees, measured as full-time
11 equivalents; except that an employer that meets the criteria specified in
12 29 U.S.C. sec. 213 (a)(3) may use its off-season employee count for the
13 purposes of this subsection ~~(2)(i)(H)~~ (2)(k)(II); and

14 (III) Has been affected by economic hardship caused by the
15 COVID-19 pandemic, including by interruption caused by required
16 business closures, voluntary closures to promote social distancing
17 measures, or decreased customer demand as a result of the COVID-19
18 public health emergency.

19 (l) "STATE OPPORTUNITY ZONE" MEANS A CENSUS TRACT
20 DESIGNATED BY THE OFFICE AS AN OPPORTUNITY ZONE.

21 (3) **Grant program.** (a) The office shall establish and administer
22 the financing of a small business COVID-19 grant program to assist small
23 businesses facing economic hardship caused by the COVID-19 pandemic.
24 ~~as permitted under the CARES Act.~~ The commission shall contract with
25 the authority to operate the program. The contract must require
26 compliance with this section and the criteria established pursuant to this
27 section by the authority and each grantor that is authorized to award

1 grants. Under the contract, the office may advance money to the authority
2 in preparation for issuing grants and administering the grant program. The
3 authority shall leverage its relationships with grantors to distribute the
4 grants to eligible small businesses.

5 (b) (I) To receive a grant pursuant to the program, a small
6 business must apply to a grantor in a manner determined by the authority.
7 The application must specify the proposed use of the grant, which must
8 relate to responding to or recovering from the impacts of the COVID-19
9 pandemic, and require reporting by the small business regarding the
10 actual use of the grant award.

11 (II) A SMALL BUSINESS MUST DEMONSTRATE THE SMALL
12 BUSINESS'S FINANCIAL LOSSES RELATED TO THE COVID-19 PANDEMIC BY
13 EITHER SELF-CERTIFYING THAT THE SMALL BUSINESS'S FINANCIAL LOSSES
14 ARE EQUAL TO OR GREATER THAN THE MAXIMUM GRANT AMOUNT OR
15 PROVIDING FINANCIAL DOCUMENTATION. A SMALL BUSINESS THAT
16 SELF-CERTIFIES ITS LOSS AND DOES NOT PROVIDE FINANCIAL
17 DOCUMENTATION MAY NOT RECEIVE A GRANT AMOUNT GREATER THAN
18 FIVE THOUSAND DOLLARS.

19 (III) A small business shall not use a grant for lobbying, as that
20 term is defined in section 24-6-301 (3.5). Each individual grant award
21 must not exceed fifteen thousand dollars AND THE TOTAL AMOUNT OF
22 MONEY AWARDED TO ANY INDIVIDUAL SMALL BUSINESS MUST NOT EXCEED
23 FIFTEEN THOUSAND DOLLARS. RECEIPT OF FINANCIAL ASSISTANCE OTHER
24 THAN PURSUANT TO THIS SECTION DOES NOT AFFECT APPLICANTS'
25 ELIGIBILITY FOR ASSISTANCE, OR THE AMOUNT OF ASSISTANCE, AVAILABLE
26 PURSUANT TO THIS SECTION.

27 (c) The office shall establish and publicize criteria that a grantor

1 shall use in awarding grants. The criteria must specify when a grant is
2 necessary to respond to the COVID-19 pandemic. ~~and therefore may be~~
3 ~~awarded in the absence of a stay-at-home order.~~

4 (e) IN ADDITION TO THE PREFERENCES SPECIFIED IN SUBSECTION
5 (3)(d) OF THIS SECTION, THE GRANTOR SHALL GIVE PREFERENCE TO A
6 SMALL BUSINESS THAT:

7 (I) DID NOT QUALIFY FOR OR RECEIVE, OR RECEIVED AN
8 INSUFFICIENT, LOAN, GRANT, OR OTHER FINANCIAL ASSISTANCE PURSUANT
9 TO THE FEDERAL "PAYCHECK PROTECTION PROGRAM AND HEALTH CARE
10 ENHANCEMENT ACT", PUB.L. 116-139, AS AMENDED, OR PURSUANT TO
11 OTHER STATE OR FEDERAL COVID-19 PANDEMIC-RELATED ASSISTANCE,
12 INCLUDING THIS SECTION AS IT EXISTED BEFORE THE EFFECTIVE DATE OF
13 THIS SECTION, AS AMENDED;

14 (II) IS A FOR-PROFIT SOLE PROPRIETORSHIP; OR

15 (III) IS LOCATED IN AN ECONOMICALLY DISTRESSED AREA.

16 (f) IF MONEY BECOMES AVAILABLE TO THE PROGRAM AFTER THE
17 EFFECTIVE DATE OF THIS SECTION, AS AMENDED, IN ADDITION TO THE
18 PREFERENCES SPECIFIED IN SUBSECTIONS (3)(d)(I) AND (3)(e) OF THIS
19 SECTION, THE GRANTOR SHALL GIVE A PREFERENCE TO A SMALL BUSINESS:

20 (I) THAT IS OBLIGATED TO MAKE LEASE OR MORTGAGE LOAN
21 PAYMENTS FOR THE BUSINESS'S PREMISES; OR

22 (II) WHERE THE BUSINESS OWNER RESIDES AT THE SAME ADDRESS
23 AS THE BUSINESS PREMISES.

24 (4) **Financing.** (a) The small business COVID-19 grant program
25 is financed by ~~twenty~~ FIFTEEN million dollars appropriated from ~~the care~~
26 ~~subfund~~ in the general fund. The office may expend the money specified
27 in this subsection (4) only for:

1 (I) Making grants through the authority to small businesses
2 pursuant to the program;

3 (II) The office's and the authority's costs of administering the
4 program, INCLUDING FOR COMMUNICATIONS, TECHNICAL ASSISTANCE FOR
5 GRANT APPLICANTS, AND OUTREACH EFFORTS TO UNDERSERVED
6 COMMUNITIES, which expenditures must not exceed ONE AND sixth-tenths
7 of one percent of the money specified in this subsection (4); and

8 (III) An allowance of up to ~~three~~ FOUR percent of each individual
9 grant PLUS UP TO TWENTY-FIVE DOLLARS PER GRANT to be used by the
10 grantor for its costs in distributing the grant.

11 ~~(b) (I) Until October 1, 2020, five million dollars of the money~~
12 ~~specified in subsection (4)(a) of this section is reserved for small~~
13 ~~businesses within the tourism sector, including the following sectors:~~

14 ~~(A) The hotel, motel, and lodging industry;~~

15 ~~(B) The food, beverage, and restaurant industry;~~

16 ~~(C) The ski industry;~~

17 ~~(D) Private travel attractions and casinos;~~

18 ~~(E) Other outdoor recreation industries;~~

19 ~~(F) Tourism-related transportation industries;~~

20 ~~(G) The tourism-related retail industry;~~

21 ~~(H) The destination marketing industry; and~~

22 ~~(I) Cultural event and facility groups.~~

23 ~~(II) On and after October 1, 2020, all of the remaining money~~
24 ~~specified in subsection (4)(a) of this section is available for any~~
25 ~~qualifying small business.~~

26 ~~(e) (b) The office must expend all money specified in this~~
27 ~~subsection (4) by December 30, 2020 JULY 1, 2022.~~

1 (5) **Reporting.** ON OR BEFORE NOVEMBER 1, 2022, the office shall
2 submit the following reports to ~~the committees of the general assembly~~
3 ~~with jurisdiction over business affairs~~ THE HOUSE OF REPRESENTATIVES
4 BUSINESS AFFAIRS AND LABOR COMMITTEE AND THE SENATE BUSINESS,
5 LABOR, AND TECHNOLOGY COMMITTEE, OR THEIR SUCCESSOR
6 COMMITTEES:

7 (a) ~~By July 1, 2020, regarding the criteria that the office has~~
8 ~~established for the award of grants; and~~ THE NUMBER OF BUSINESSES
9 APPLYING TO THE PROGRAM, INCLUDING A BREAKDOWN OF THE NUMBER
10 OF APPLICANTS THAT ARE OWNED BY WOMEN, MINORITIES, OR VETERANS;

11 (b) ~~By April 1, 2021, regarding the number of grants awarded, the~~
12 ~~amount of each grant, the recipient of each grant, and how the recipient~~
13 ~~spent the grant.~~ THE PERCENTAGE OF APPLICANTS FUNDED AND THE
14 AVERAGE RATE OF FUNDING UNDER THE PROGRAM, INCLUDING A
15 BREAKDOWN OF THE PERCENTAGE OF APPLICANTS FUNDED AND THE
16 AVERAGE RATE OF FUNDING FOR SMALL BUSINESSES THAT ARE OWNED BY
17 WOMEN, MINORITIES, OR VETERANS;

18 (c) THE GEOGRAPHIC DISTRIBUTION OF THE APPLICANTS FOR AND
19 RECIPIENTS OF LOANS AND GRANTS; AND

20 (d) INFORMATION ON THE TYPE AND SIZE OF SMALL BUSINESSES
21 THAT APPLIED FOR AND RECEIVED FUNDING UNDER THE PROGRAM.

22 (6) **Repeal.** This section is repealed, effective September 1, 2022
23 2024.

24 **SECTION 2.** In Colorado Revised Statutes, 24-46-104, **amend**
25 (1)(n)(II)(B) as follows:

26 **24-46-104. Powers and duties of commission - repeal.** (1) The
27 commission has the following powers and duties:

1 (n) To contract with the Colorado housing and finance authority,
2 created in part 7 of article 4 of title 29, for the operation of:

3 (II) (B) This subsection (1)(n)(II) is repealed, effective September
4 1, ~~2022~~ 2024.

5 **SECTION 3.** In Colorado Revised Statutes, 29-4-708, **amend**
6 (1)(bb)(II) as follows:

7 **29-4-708. General powers of the authority - repeal.** (1) In
8 addition to any other powers granted to the authority in this part 7, the
9 authority has the following powers:

10 (bb) (II) This subsection (1)(bb) is repealed, effective September
11 1, ~~2022~~ 2024.

12 **SECTION 4. Appropriation.** For the 2020-21 state fiscal year,
13 \$15,000,000 is appropriated to the Colorado office of economic
14 development. This appropriation is from the general fund. To implement
15 this act, the Colorado office of economic development may use this
16 appropriation for the administration of the small business COVID-19
17 grant program as specified in section 24-48.5-126 (3), C.R.S. Any money
18 appropriated in this section but not awarded prior to July 1, 2021, is
19 further appropriated to the Colorado office of economic development for
20 the 2021-22 state fiscal year for the same purpose.

21 **SECTION 5. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, or safety.