

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 21-0896.02 Thomas Morris x4218

HOUSE BILL 21-1302

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SENATE SPONSORSHIP

Winter,

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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.*

HOUSE
3rd Reading Unamended
May 24, 2021

HOUSE
Amended 2nd Reading
May 21, 2021

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 ANY FINANCING OR WERE ABLE TO SECURE ONLY INSUFFICIENT
23 FINANCING PURSUANT TO THIS SECTION BEFORE THE DECEMBER 30, 2020,
24 DEADLINE;

25 (A) ~~Are necessary expenditures incurred due to the public health~~

1 emergency with respect to the COVID-19 pandemic;

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

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

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

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

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

1 experienced a significant decline in their household incomes, all of which
2 has resulted in economic distress for many small businesses; and

3 (c) Declares that:

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

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

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

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

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

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

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

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

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

1 UNDERUTILIZED BUSINESS ZONE.

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

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

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

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

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

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

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

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

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

1 ~~the United States bureau of the census.~~

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

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

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

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

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

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

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

1 section by the authority and each grantor that is authorized to award
2 grants. Under the contract, the office may advance money to the authority
3 in preparation for issuing grants and administering the grant program. The
4 authority shall leverage its relationships with grantors to distribute the
5 grants to eligible small businesses.

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

12 (II) THE FACT THAT A SMALL BUSINESS RECEIVED AN AWARD FROM
13 THE PROGRAM BEFORE THE EFFECTIVE DATE OF THIS SECTION, AS
14 AMENDED, DOES NOT DISQUALIFY THE SMALL BUSINESS FROM RECEIVING
15 AN AWARD FROM THE PROGRAM ON OR AFTER THE EFFECTIVE DATE OF
16 THIS SECTION, AS AMENDED. A SMALL BUSINESS MUST DEMONSTRATE THE
17 SMALL BUSINESS'S FINANCIAL LOSSES RELATED TO THE COVID-19
18 PANDEMIC BY PROVIDING EITHER A SELF-CERTIFICATION OR FINANCIAL
19 DOCUMENTATION THAT THE SMALL BUSINESS'S FINANCIAL LOSSES ARE
20 EQUAL TO OR GREATER THAN THE AMOUNT REQUESTED, UP TO THE
21 MAXIMUM GRANT AMOUNT. A SMALL BUSINESS THAT SELF-CERTIFIES ITS
22 LOSS AND DOES NOT PROVIDE FINANCIAL DOCUMENTATION MAY NOT
23 RECEIVE A GRANT AMOUNT ON OR AFTER THE EFFECTIVE DATE OF THIS
24 SECTION, AS AMENDED, GREATER THAN FIVE THOUSAND DOLLARS.

25 (III) A small business shall not use a grant for lobbying, as that
26 term is defined in section 24-6-301 (3.5). Each individual grant award
27 must not exceed fifteen thousand dollars AND THE TOTAL AMOUNT OF

1 MONEY AWARDED TO ANY INDIVIDUAL SMALL BUSINESS MUST NOT EXCEED
2 FIFTEEN THOUSAND DOLLARS. RECEIPT OF FINANCIAL ASSISTANCE OTHER
3 THAN ~~FROM THE PROGRAM~~ DOES NOT AFFECT APPLICANTS' ELIGIBILITY FOR
4 ASSISTANCE, OR THE AMOUNT OF ASSISTANCE, AVAILABLE ~~FROM THE~~
5 ~~PROGRAM.~~

6 (c) The office shall establish and publicize criteria that a grantor
7 shall use in awarding grants. The criteria must specify when a grant is
8 necessary to respond to the COVID-19 pandemic. ~~and therefore may be~~
9 ~~awarded in the absence of a stay-at-home order.~~

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

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

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

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

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

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

1 (II) WHERE THE BUSINESS OWNER RESIDES AT THE SAME ADDRESS
2 AS THE BUSINESS PREMISES.

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

7 (I) Making grants through the authority to small businesses
8 pursuant to the program;

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

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

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

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

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

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

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

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

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

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

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

1 ~~(I) Cultural event and facility groups.~~
2 ~~(H) On and after October 1, 2020, all of the remaining money~~
3 ~~specified in subsection (4)(a) of this section is available for any~~
4 ~~qualifying small business.~~
5 ~~(e) (b) The office must expend all money specified in this~~
6 ~~subsection (4) by December 30, 2020~~ JULY 1, 2022.
7 **(5) Reporting.** ON OR BEFORE NOVEMBER 1, 2022, the office shall
8 submit the following reports to ~~the committees of the general assembly~~
9 ~~with jurisdiction over business affairs~~ THE HOUSE OF REPRESENTATIVES
10 BUSINESS AFFAIRS AND LABOR COMMITTEE AND THE SENATE BUSINESS,
11 LABOR, AND TECHNOLOGY COMMITTEE, OR THEIR SUCCESSOR
12 COMMITTEES:
13 ~~(a) By July 1, 2020, regarding the criteria that the office has~~
14 ~~established for the award of grants; and~~ THE NUMBER OF BUSINESSES
15 APPLYING TO THE PROGRAM, INCLUDING A BREAKDOWN OF THE NUMBER
16 OF APPLICANTS THAT ARE OWNED BY WOMEN, MINORITIES, OR VETERANS;
17 ~~(b) By April 1, 2021, regarding the number of grants awarded, the~~
18 ~~amount of each grant, the recipient of each grant, and how the recipient~~
19 ~~spent the grant.~~ THE PERCENTAGE OF APPLICANTS FUNDED AND THE
20 AVERAGE RATE OF FUNDING UNDER THE PROGRAM, INCLUDING A
21 BREAKDOWN OF THE PERCENTAGE OF APPLICANTS FUNDED AND THE
22 AVERAGE RATE OF FUNDING FOR SMALL BUSINESSES THAT ARE OWNED BY
23 WOMEN, MINORITIES, OR VETERANS;
24 ~~(c) THE GEOGRAPHIC DISTRIBUTION OF THE APPLICANTS FOR AND~~
25 ~~RECIPIENTS OF LOANS AND GRANTS; AND~~
26 ~~(d) INFORMATION ON THE TYPE AND SIZE OF SMALL BUSINESSES~~
27 ~~THAT APPLIED FOR AND RECEIVED FUNDING UNDER THE PROGRAM.~~

1 (6) **Repeal.** This section is repealed, effective September 1, ~~2022~~
2 2024.

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

5 **24-46-104. Powers and duties of commission - repeal.** (1) The
6 commission has the following powers and duties:

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

9 (II) (B) This subsection (1)(n)(II) is repealed, effective September
10 1, ~~2022~~ 2024.

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

13 **29-4-708. General powers of the authority - repeal.** (1) In
14 addition to any other powers granted to the authority in this part 7, the
15 authority has the following powers:

16 (bb) (II) This subsection (1)(bb) is repealed, effective September
17 1, ~~2022~~ 2024.

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

26 **SECTION 5. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, or safety.