

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 21-0898.01 Megan Waples x4348

HOUSE BILL 21-1288

HOUSE SPONSORSHIP

Bacon and Duran, Herod

SENATE SPONSORSHIP

Coleman,

House Committees

Business Affairs & Labor
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE COLORADO STARTUP LOAN**
102 **PROGRAM, AND, IN CONNECTION THEREWITH, MAKING AN**
103 **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>.)

The bill creates the Colorado startup loan program (program) in the office of economic development (office) as a revolving loan program to provide loans and grants to businesses seeking capital to start, restart, or restructure a business. The office may contract with a business nonprofit organization, bank, nondepository community development

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.

financial institution, or other entity to administer the program.

The office or an administrator is required to establish policies for the program, including:

- The process and deadlines for applying to the program;
- The eligibility criteria for businesses;
- Maximum assistance levels for loans and grants;
- Loan terms, program fees, and underwriting and risk management policies; and
- Reporting requirements for recipients.

The policies must be developed with the goal of generating enough return to replenish the Colorado startup loan program fund (fund) for further loan allocations.

In determining the eligibility of applicants and the size and terms of loans and grants, the office or an administrator must consider:

- The need of the business to restructure as a result of the COVID-19 pandemic or the ability of the business to fill gaps left by closures resulting from the COVID-19 pandemic;
- The financial losses or other impacts from the COVID-19 pandemic that may inhibit an entrepreneur from obtaining capital through traditional sources;
- Whether the applicant or the applicant's community faces other barriers to accessing capital from traditional sources; and
- The applicant's financial needs and repayment ability and any technical assistance the applicant is receiving.

The office is required to work with the minority business office and other stakeholders to promote the program to businesses that are owned by women, minorities, and veterans and to businesses in rural and underserved communities.

The bill creates the fund. The state treasurer is required to transfer \$30 million to the fund on the effective date of the bill. The money in the fund is continuously appropriated to the office for the program.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 24-48.5-127 as
3 follows:

4 **24-48.5-127. Colorado startup loan program - fund - creation**
5 **- policies - report - legislative declaration - definitions - repeal.**

6 (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

1 (a) THE COVID-19 PANDEMIC HAS HAD DEVASTATING ECONOMIC
2 AND HEALTH CONSEQUENCES ACROSS THE STATE;

3 (b) THE COVID-19 PANDEMIC HAS AFFECTED ENTREPRENEURS IN
4 MULTIPLE WAYS. MANY WERE FORCED TO CLOSE THEIR BUSINESS
5 PERMANENTLY, OTHERS TEMPORARILY CLOSED OR DOWNSIZED, AND SOME
6 HAD THEIR CREDIT IMPACTED DUE TO NO FAULT OF THEIR OWN.

7 (c) ENTREPRENEURS AFFECTED BY THE COVID-19 PANDEMIC
8 NEED ACCESS TO CAPITAL TO RESTART, RESTRUCTURE, OR SCALE UP THEIR
9 BUSINESSES;

10 (d) AS COMMUNITIES RECOVER FROM THE COVID-19 PANDEMIC,
11 THERE IS ALSO AN OPPORTUNITY TO SUPPORT ENTREPRENEURS TRYING TO
12 START NEW BUSINESSES WHO DEMONSTRATE STRONG CHARACTER AND A
13 SUCCESSFUL BUSINESS PLAN BUT HAVE LACKED MEANINGFUL ACCESS TO
14 TRADITIONAL SOURCES OF CAPITAL;

15 (e) STARTUP AND SMALL BUSINESSES CREATE JOBS, OFTEN TO A
16 GREATER DEGREE THAN LARGE BUSINESSES, AND SUPPORT A HEALTHY AND
17 DIVERSE ECONOMY;

18 (f) THERE IS A WELL-FUNCTIONING NETWORK OF RESPECTED
19 COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS AND OTHER
20 NONPROFIT LENDERS ACROSS COLORADO THAT ARE COMMITTED TO THE
21 HEALTH OF COLORADO'S ECONOMY AND PROVIDE ASSISTANCE TO
22 BUSINESSES AND ENTREPRENEURS THAT CAN DEMONSTRATE A
23 SUCCESSFUL BUSINESS PLAN BUT MAY HAVE LACKED MEANINGFUL ACCESS
24 TO TRADITIONAL SOURCES OF CAPITAL;

25 (g) CREATING A REVOLVING LOAN FUND TO PROVIDE CAPITAL TO
26 ENTREPRENEURS CAN HELP COLORADO COMMUNITIES AND BUSINESSES
27 RECOVER FROM THE COVID-19 PANDEMIC WHILE ALSO SUPPORTING

1 LONG-TERM ECONOMIC GROWTH IN THE STATE; AND

2 (h) A REVOLVING LOAN FUND ENSURES THAT THESE FUNDS ARE
3 EVERGREEN AND RECYCLED MANY TIMES ACROSS MULTIPLE BUSINESSES,
4 THEREBY SUPPORTING NEW ENTREPRENEURS FAR INTO THE FUTURE.

5 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
6 REQUIRES:

7 (a) "ADMINISTRATOR" MEANS AN ENTITY OR ENTITIES THAT THE
8 OFFICE CONTRACTS WITH PURSUANT TO SUBSECTION (3)(b) OF THIS
9 SECTION TO ADMINISTER THE PROGRAM.

10 (b) "ELIGIBLE BUSINESS" MEANS A BUSINESS THAT MEETS THE
11 ELIGIBILITY CRITERIA ESTABLISHED BY THE OFFICE IN POLICIES ADOPTED
12 PURSUANT TO SUBSECTION (5) OF THIS SECTION.

13 (c) "FUND" MEANS THE COLORADO STARTUP LOAN PROGRAM FUND
14 ESTABLISHED IN SUBSECTION (9) OF THIS SECTION.

15 (d) "OFFICE" MEANS THE COLORADO OFFICE OF ECONOMIC
16 DEVELOPMENT CREATED IN SECTION 24-48.5-101.

17 (e) "PROGRAM" MEANS THE COLORADO STARTUP LOAN PROGRAM
18 CREATED IN SUBSECTION (3) OF THIS SECTION.

19 (3) (a) THE OFFICE SHALL ESTABLISH THE COLORADO STARTUP
20 LOAN PROGRAM AS A REVOLVING LOAN AND GRANT PROGRAM IN
21 ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION AND THE
22 POLICIES ESTABLISHED BY THE OFFICE PURSUANT TO SUBSECTION (5) OF
23 THIS SECTION. THE PROGRAM MAY PROVIDE LOANS AND GRANTS TO
24 ELIGIBLE BUSINESSES SEEKING CAPITAL ASSISTANCE TO START OR RESTART
25 A BUSINESS OR TO RESTRUCTURE AN EXISTING BUSINESS.

26 (b) THE OFFICE SHALL CONTRACT WITH A BUSINESS NONPROFIT
27 ORGANIZATION, BANK, NONDEPOSITORY COMMUNITY DEVELOPMENT

1 FINANCIAL INSTITUTION, OR BUSINESS DEVELOPMENT CORPORATION OR
2 OTHER ENTITY AS DETERMINED BY THE OFFICE TO ADMINISTER THE
3 PROGRAM. IF THE OFFICE CONTRACTS WITH AN ENTITY OR ENTITIES TO
4 ADMINISTER THE PROGRAM, THE OFFICE SHALL USE AN OPEN AND
5 COMPETITIVE PROCESS TO SELECT THE ENTITY OR ENTITIES. A CONTRACT
6 WITH AN ADMINISTRATOR MAY INCLUDE AN ADMINISTRATION FEE
7 ESTABLISHED BY THE OFFICE AT AN AMOUNT REASONABLY CALCULATED
8 TO COVER THE ONGOING ADMINISTRATIVE COSTS OF THE OFFICE IN
9 OVERSEEING THE PROGRAM. THE OFFICE MAY ADVANCE MONEY TO AN
10 ENTITY UNDER A CONTRACT IN PREPARATION FOR ISSUING LOANS AND
11 GRANTS AND ADMINISTERING THE PROGRAM. THE OFFICE SHALL NOT HAVE
12 ANY DIRECT LENDING AUTHORITY TO MAKE LOANS TO SMALL BUSINESSES.

13 (c) AT LEAST FIFTY PERCENT OF THE MONEY APPROPRIATED TO THE
14 PROGRAM PURSUANT TO SUBSECTION (9)(c) OF THIS SECTION MUST BE
15 ENCUMBERED BY JUNE 30, 2022.

16 (4) A CONTRACT WITH AN ADMINISTRATOR MAY REQUIRE THE
17 ADMINISTRATOR TO REPAY ALL LENDING CAPITAL THAT IS NOT
18 COMMITTED TO LOANS OR GRANTS UNDER THE PROGRAM AND ALL
19 PRINCIPAL AND INTEREST THAT IS REPAYED BY BORROWERS UNDER THE
20 PROGRAM AT THE END OF THE CONTRACT PERIOD IF, IN THE JUDGMENT OF
21 THE OFFICE, THE ADMINISTRATOR HAS NOT PERFORMED SUCCESSFULLY
22 UNDER THE TERMS OF THE CONTRACT. THE OFFICE MAY REDEPLOY MONEY
23 REPAYED UNDER THIS SUBSECTION (4) AS GRANTS OR LOANS UNDER THE
24 PROGRAM OR THROUGH ANOTHER ADMINISTRATOR.

25 (5) (a) THE OFFICE OR AN ADMINISTRATOR SHALL ESTABLISH AND
26 PUBLICIZE POLICIES FOR THE PROGRAM. AT A MINIMUM, THE POLICIES
27 MUST ADDRESS:

1 (I) THE PROCESS AND DEADLINES FOR APPLYING FOR AND
2 RECEIVING A LOAN OR GRANT UNDER THE PROGRAM, INCLUDING THE
3 INFORMATION AND DOCUMENTATION REQUIRED FOR THE APPLICATION;

4 (II) ELIGIBILITY CRITERIA FOR BUSINESSES APPLYING TO THE
5 PROGRAM;

6 (III) MAXIMUM ASSISTANCE LEVELS FOR LOANS AND GRANTS;

7 (IV) LOAN TERMS, INCLUDING INTEREST RATES AND REPAYMENT
8 TERMS;

9 (V) REPORTING REQUIREMENTS FOR RECIPIENTS;

10 (VI) PROGRAM FEES, INCLUDING THE APPLICATION FEE,
11 ORIGINATION FEE, AND CLOSING COSTS POLICIES;

12 (VII) UNDERWRITING AND RISK MANAGEMENT POLICIES; AND

13 (VIII) ANY ADDITIONAL POLICIES NECESSARY TO ADMINISTER THE
14 PROGRAM.

15 (b) THE POLICIES REQUIRED BY THIS SUBSECTION (5) SHALL BE
16 DEVELOPED AND IMPLEMENTED WITH A GOAL OF GENERATING ENOUGH
17 RETURN TO REPLENISH THE PROGRAM FOR FUTURE LOAN ALLOCATIONS.

18 (6) (a) IN DETERMINING THE ELIGIBILITY OF APPLICANTS AND THE
19 SIZE AND TERMS OF LOANS AND GRANTS, THE OFFICE OR AN
20 ADMINISTRATOR SHALL CONSIDER:

21 (I) THE NEED OF AN EXISTING BUSINESS TO RESTRUCTURE,
22 REDEFINE ITS BUSINESS MODEL, OR RECAPITALIZE AS A RESULT OF THE
23 COVID-19 PANDEMIC;

24 (II) THE ABILITY OF A NEW BUSINESS TO FILL GAPS LEFT IN A
25 COMMUNITY OR INDUSTRY BY CLOSURES RESULTING FROM THE COVID-19
26 PANDEMIC;

27 (III) THE FINANCIAL LOSSES OR OTHER IMPACTS RESULTING FROM

1 THE COVID-19 PANDEMIC THAT MAY INHIBIT AN ENTREPRENEUR FROM
2 OBTAINING CAPITAL THROUGH TRADITIONAL SOURCES;

3 (IV) WHETHER THE APPLICANT OR THE COMMUNITY SERVED BY
4 THE APPLICANT'S BUSINESS FACES OTHER BARRIERS TO ACCESSING
5 CAPITAL FROM TRADITIONAL SOURCES OR IS OTHERWISE UNDERSERVED;

6 (V) THE APPLICANT'S FINANCIAL NEED AND REPAYMENT ABILITY,
7 AS DEMONSTRATED THROUGH FINANCIAL PROJECTIONS AND BUSINESS
8 PLANS; AND

9 (VI) ANY TECHNICAL ASSISTANCE THE APPLICANT IS RECEIVING TO
10 HELP THE APPLICANT VALIDATE THE APPLICANT'S BUSINESS PLANS.

11 (b) TO THE EXTENT PRACTICABLE, THE PROGRAM MAY PRIORITIZE
12 APPLICATIONS FROM ELIGIBLE BUSINESSES THAT HAVE COMPLETED A
13 BUSINESS DEVELOPMENT PROGRAM OFFERED BY THE OFFICE.

14 (7) THE OFFICE SHALL WORK WITH THE MINORITY BUSINESS OFFICE
15 CREATED IN SECTION 24-49.5-102, SMALL BUSINESS DEVELOPMENT
16 CENTERS, COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS, AND
17 STAKEHOLDER PARTNERS TO PROMOTE THE PROGRAM TO BUSINESSES
18 OWNED BY WOMEN, VETERANS, AND MINORITIES AND TO BUSINESSES
19 LOCATED IN RURAL COUNTIES AND OTHER COMMUNITIES THAT ARE
20 UNDERSERVED OR DISADVANTAGED. ON OR BEFORE SEPTEMBER 1, 2021,
21 THE OFFICE SHALL DEVELOP AND ADMINISTER A MARKETING INITIATIVE
22 FOR THE PROGRAM IN COORDINATION WITH THE MINORITY BUSINESS
23 OFFICE CREATED IN SECTION 24-49.5-102, THE SMALL BUSINESS
24 ASSISTANCE CENTER CREATED IN SECTION 24-48.5-102, LOCAL CHAMBERS
25 OF COMMERCE, AND OTHER LOCAL AND REGIONAL ECONOMIC
26 DEVELOPMENT ENTITIES TO PROMOTE THE PROGRAM TO ELIGIBLE
27 BUSINESSES AND TARGET COMMUNITIES. THE MARKETING INITIATIVE

1 SHALL BE CONDUCTED IN THE TOP SPOKEN LANGUAGES IN THOSE
2 COMMUNITIES.

3 (8) (a) THE OFFICE MAY SEEK, ACCEPT, AND EXPEND GIFTS,
4 GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE
5 PURPOSES OF THIS SECTION. THE OFFICE SHALL TRANSMIT ALL MONEY
6 RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS TO THE STATE
7 TREASURER, WHO SHALL CREDIT THE MONEY TO THE FUND.

8 (b) THE OFFICE MAY EXPEND, DEPLOY, OR LEVERAGE MONEY
9 RECEIVED FROM FEDERAL GOVERNMENT PROGRAMS THAT SUPPORT LOANS
10 AND INVESTMENTS FOR SMALL BUSINESS TO MAKE LOANS AND GRANTS
11 UNDER THE PROGRAM OR TO OTHERWISE MARKET, PROMOTE, OR SUPPORT
12 LOANS AND GRANTS UNDER THE PROGRAM, IF ALLOWED UNDER FEDERAL
13 LAW.

14 (9) (a) THE COLORADO STARTUP LOAN PROGRAM FUND IS HEREBY
15 CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF MONEY
16 TRANSFERRED TO THE FUND IN ACCORDANCE WITH SUBSECTION (9)(d) OF
17 THIS SECTION, ANY OTHER MONEY THAT THE GENERAL ASSEMBLY
18 APPROPRIATES OR TRANSFERS TO THE FUND, AND ANY GIFTS, GRANTS, OR
19 DONATIONS CREDITED TO THE FUND PURSUANT TO SUBSECTION (8)(a) OF
20 THIS SECTION.

21 (b) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND
22 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
23 FUND TO THE FUND.

24 (c) MONEY TRANSFERRED TO THE FUND PURSUANT TO SUBSECTION
25 (9)(d) OF THIS SECTION IS CONTINUOUSLY APPROPRIATED TO THE OFFICE
26 FOR THE PURPOSES SPECIFIED IN THIS SECTION. THE OFFICE MAY EXPEND
27 UP TO TWO PERCENT OF THE MONEY IN OR AWARDED BY THE FUND ON AN

1 ANNUAL BASIS TO PAY FOR ITS DIRECT AND INDIRECT COSTS IN
2 IMPLEMENTING AND ADMINISTERING THIS SECTION.

3 (d) ON THE EFFECTIVE DATE OF THIS SUBSECTION (9)(d), THE
4 STATE TREASURER SHALL TRANSFER THIRTY MILLION DOLLARS FROM THE
5 GENERAL FUND TO THE COLORADO STARTUP LOAN PROGRAM FUND
6 CREATED IN SUBSECTION (9)(a) OF THIS SECTION.

7 (e) ON THE EFFECTIVE DATE OF THIS SUBSECTION (9)(e), THE
8 STATE TREASURER SHALL TRANSFER ONE MILLION THREE HUNDRED FIFTY
9 THOUSAND DOLLARS FROM THE GENERAL FUND TO THE COLORADO
10 STARTUP LOAN PROGRAM FUND CREATED IN SUBSECTION (9)(a) OF THIS
11 SECTION. THE MONEY TRANSFERRED IN ACCORDANCE WITH THIS
12 SUBSECTION (9)(e) IS RESERVED FOR GRANTS OR LOANS AWARDED UNDER
13 THE COLORADO STARTUP LOAN PROGRAM TO BUSINESSES THAT
14 DEMONSTRATE NEED AND SUCCESS UNDER A SMALL BUSINESS
15 ACCELERATED GROWTH PROGRAM ADMINISTERED BY THE OFFICE.

16 (10) ON OR BEFORE NOVEMBER 1, 2022, AND ON OR BEFORE
17 NOVEMBER 1 OF EACH YEAR THEREAFTER, THE OFFICE SHALL SUBMIT A
18 REPORT DETAILING THE EXPENDITURE OF MONEY APPROPRIATED TO THE
19 PROGRAM TO THE GOVERNOR AND TO THE HOUSE OF REPRESENTATIVES
20 BUSINESS AFFAIRS AND LABOR COMMITTEE AND THE SENATE BUSINESS,
21 LABOR, AND TECHNOLOGY COMMITTEE, OR THEIR SUCCESSOR
22 COMMITTEES. NOTWITHSTANDING THE REQUIREMENT IN SECTION 24-1-136
23 (11)(a)(I), THE REQUIREMENT IN THIS SUBSECTION (10) TO SUBMIT THE
24 REPORT CONTINUES INDEFINITELY. AT A MINIMUM, THE REPORT MUST
25 INCLUDE INFORMATION FOR THE PAST FISCAL YEAR CONCERNING:

26 (a) THE NUMBER OF BUSINESSES APPLYING TO THE PROGRAM,
27 INCLUDING A BREAKDOWN OF THE NUMBER OF APPLICANTS THAT ARE

1 OWNED BY WOMEN, MINORITIES, OR VETERANS;

2 (b) THE PERCENTAGE OF APPLICANTS FUNDED AND THE AVERAGE
3 RATE OF FUNDING UNDER THE PROGRAM, INCLUDING A BREAKDOWN OF
4 THE PERCENTAGE OF APPLICANTS FUNDED AND THE AVERAGE RATE OF
5 FUNDING FOR BUSINESSES THAT ARE OWNED BY WOMEN, MINORITIES, OR
6 VETERANS;

7 (c) THE GEOGRAPHIC DISTRIBUTION OF THE APPLICANTS FOR AND
8 RECIPIENTS OF LOANS AND GRANTS; AND

9 (d) INFORMATION ON THE TYPE AND SIZE OF BUSINESSES THAT
10 APPLIED FOR AND RECEIVED FUNDING UNDER THE PROGRAM.

11



12 **SECTION 2. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, or safety.