

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

ENGROSSED

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

LLS NO. 17-0620.01 Esther van Mourik x4215

HOUSE BILL 17-1214

HOUSE SPONSORSHIP

Coleman, Gray, Rosenthal, Arndt, Covarrubias, Melton

SENATE SPONSORSHIP

Tate, Kerr, Williams A.

House Committees
Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING EFFORTS TO ENCOURAGE EMPLOYEE OWNERSHIP OF THE**
102 **STATE'S EXISTING SMALL BUSINESSES.**

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 requires the Colorado office of economic development (office) to engage the services of a local nonprofit organization that supports and promotes the employee-owned business model to educate the staff at the office on the forms and merits of employee ownership in order for the office to promote employee ownership as part of its small business assistance center.

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

HOUSE
Amended 2nd Reading
March 21, 2017

The bill requires the office to establish and administer a revolving loan program to assist transitions of existing businesses to employee-owned businesses. The bill specifies that the office may enter into a contract, following an open and competitive process, with a local nonprofit organization that supports and promotes the employee-owned business model, a lender, or a community development financial institution to establish and administer the revolving loan program. The bill specifies the types of businesses that may qualify for the program, sets a maximum amount of any loan, and specifies what the loans may and may not be used for. The bill also allows the office to seek matching private sector money to help capitalize the program.

The bill further requires the general assembly to annually appropriate money to the office in order to capitalize the revolving loan program, and allows the office to use a portion of the appropriation for administration of the revolving loan program.

The bill also specifies that the office is required to establish guidelines and post on its website administrative details about the revolving loan program, such as fees, costs, interest rates, and loan terms.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 24-48.5-124 as
3 follows:

4 **24-48.5-124. Preserving small businesses through employee**
5 **ownership - legislative declaration - definitions - repeal.** (1) THE
6 GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

7 (a) IN COLORADO, NEARLY ONE MILLION WORKERS ARE EMPLOYED
8 BY SMALL BUSINESSES WHICH EQUALS ABOUT HALF OF OUR WORKFORCE;

9 (b) ACCORDING TO THE UNITED STATES CENSUS BUREAU, NEARLY
10 SIXTY-SIX PERCENT OF SMALL BUSINESSES ARE OWNED BY SO-CALLED
11 "BABY BOOMERS", PEOPLE WHO BEGAN TURNING SIXTY-FIVE YEARS OLD
12 IN 2011;

13 (c) MANY SMALL BUSINESS OWNERS IN BOTH URBAN AND RURAL
14 AREAS OF THE STATE DO NOT HAVE A SUCCESSION PLAN FOR THEIR
15 RETIREMENT, AND AS THESE BUSINESS OWNERS RETIRE THERE WILL BE,

1 NATIONALLY, APPROXIMATELY TEN TRILLION DOLLARS IN ASSETS UP FOR
2 SALE;

3 (d) STUDIES HAVE SHOWN THAT EMPLOYEE OWNERSHIP IS ONE
4 SUCCESSFUL SOLUTION TO THIS PROBLEM BECAUSE IT ALLOWS SMALL
5 BUSINESS OWNERS TO STRATEGIZE AN EXIT THAT KEEPS THE BUSINESS AND
6 JOBS IN THE COMMUNITY AND KEEPS THE BUSINESS OWNER'S LEGACY
7 INTACT;

8 (e) THERE ARE OVER ONE HUNDRED EIGHTY EMPLOYEE-OWNED
9 BUSINESSES IN THE STATE;

10 (f) ENCOURAGING BROADER USE OF EMPLOYEE OWNERSHIP IS A
11 HIGHLY COST-EFFECTIVE WAY TO RETAIN AND CREATE JOBS, INCREASE
12 WEALTH FOR A BROAD SECTOR OF WORKERS, STRENGTHEN COMMUNITIES,
13 AND EXPAND ECONOMIC GROWTH;

14 (g) LOCAL COMMUNITY ECONOMIES BENEFIT FROM EMPLOYEE
15 OWNERSHIP THROUGH AN ENHANCED TAX BASE, MAINTAINED PROPERTY
16 VALUES, AND HIGHER INSTANCES OF ON-TIME REPAYMENT OF LOANS;

17 (h) COMPANIES THAT ARE PARTIALLY OR FULLY EMPLOYEE-OWNED
18 AND DEMOCRATICALLY MANAGED OFFER THE FOLLOWING ADVANTAGES:

19 (I) OWNERS HAVE A SUCCESSION PLAN IN PLACE TO ENSURE THAT
20 THE COMPANY CONTINUES TO ADD VALUE TO THE COMMUNITIES IT
21 SERVES;

22 (II) EMPLOYEES ARE INVESTED IN THEIR PLACE OF EMPLOYMENT
23 AND GET TO ENJOY THE FRUITS OF THEIR LABOR;

24 (III) EMPLOYEE AND MANAGEMENT GOALS ARE ALIGNED,
25 ALLOWING FOR A STRONGER AND MORE RESILIENT COMPANY; AND

26 (IV) EMPLOYEES HAVE THE OPPORTUNITY TO BE AN
27 ENTREPRENEUR WITHOUT ALL OF THE RISK;

1 (i) THE FOLLOWING STATISTICS INDICATE THE POSITIVE
2 ATTRIBUTES OF EMPLOYEE OWNERSHIP:

3 (I) ONLY ONE AND THREE-TENTHS PERCENT OF EMPLOYEES AT
4 EMPLOYEE-OWNED COMPANIES WERE LAID OFF IN 2014 COMPARED TO
5 NINE AND ONE-HALF PERCENT AT OTHER COMPANIES;

6 (II) EMPLOYERS AT COMPANIES THAT HAVE AN EMPLOYEE STOCK
7 OWNERSHIP PLAN CONTRIBUTED SEVENTY-FIVE PERCENT MORE TO EACH
8 EMPLOYEE'S RETIREMENT PLAN COMPARED TO COMPANIES WITH
9 TRADITIONAL PLANS;

10 (III) THE ANNUAL SALES ADVANTAGE OF AN EMPLOYEE- OWNED
11 COMPANY WITH AN AVERAGE OF TWO HUNDRED EMPLOYEES OVER A
12 TRADITIONAL COMPANY IS NINE MILLION DOLLARS;

13 (IV) EMPLOYEES OF EMPLOYEE-OWNED BUSINESSES EARN FIVE TO
14 TWELVE PERCENT HIGHER WAGES THAN THEIR COUNTERPARTS AT OTHER
15 BUSINESSES;

16 (V) AFTER FIVE YEARS, EMPLOYEE-OWNED BUSINESSES ARE
17 SIXTY-SIX PERCENT MORE LIKELY TO STILL BE IN BUSINESS THAN THEIR
18 COUNTERPARTS; AND

19 (VI) OVER A TEN-YEAR STUDY, EMPLOYEE-OWNED BUSINESSES
20 HAD TWENTY-FIVE PERCENT HIGHER JOB GROWTH THAN COMPARABLE
21 BUSINESSES THAT WERE NOT EMPLOYEE-OWNED; AND

22 (j) ESTABLISHING A REVOLVING LOAN PROGRAM THROUGH THE
23 OFFICE WILL BE AN INTEGRAL PART OF THE SMALL BUSINESS LOAN
24 PACKAGE NEEDED TO INCENTIVIZE EMPLOYEE OWNERSHIP. BORROWERS
25 WILL BENEFIT FROM FLEXIBLE AND FAVORABLE TERMS, RESULTING IN NEW
26 JOBS, NEW BUSINESSES, AND A HEALTHIER LOCAL ECONOMY.

27 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE

1 REQUIRES:

2 (a) "EMPLOYEE-OWNED BUSINESS NONPROFIT ORGANIZATION" OR
3 "NONPROFIT" MEANS A NONDEPOSITORY COLORADO NONPROFIT
4 ORGANIZATION THAT SUPPORTS AND PROMOTES THE EMPLOYEE-OWNED
5 BUSINESS MODEL.

6 (b) "EXISTING BUSINESS" MEANS A BUSINESS THAT:

7 (I) IS AT LEAST TWO YEARS OLD;

8 (II) HAS AT LEAST THREE EMPLOYEES;

9 (III) SEES ANNUAL NET REVENUES EQUAL TO OR LESS THAN FIVE
10 MILLION DOLLARS;

11 (IV) OFFERS THE EMPLOYEE OWNERSHIP OPPORTUNITY TO EVERY
12 EMPLOYEE; AND

13 (V) PLANS TO ENTER OR HAS ENTERED INTO AN
14 EMPLOYEE-OWNERSHIP AGREEMENT WITH AT LEAST HALF OF ITS
15 EMPLOYEES.

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

18 (d) "PROGRAM" MEANS THE REVOLVING LOAN PROGRAM CREATED
19 IN SUBSECTION (4) OF THIS SECTION.

20 (e) "TECHNICAL ASSISTANCE" MEANS PROFESSIONAL SERVICES,
21 INCLUDING ACCOUNTING, LEGAL, AND BUSINESS ADVISORY SERVICES FOR
22 THE TRANSITION OF AN EXISTING BUSINESS TO AN EMPLOYEE-OWNED
23 BUSINESS.

24 (3) (a) NO LATER THAN SEPTEMBER 1, 2017, THE OFFICE SHALL
25 ENGAGE WITH AN EMPLOYEE-OWNED BUSINESS NONPROFIT ORGANIZATION
26 TO EDUCATE THE STAFF AT THE OFFICE ON THE FORMS AND MERITS OF
27 EMPLOYEE OWNERSHIP IN ORDER FOR THE OFFICE TO BE ABLE TO PROMOTE

1 EMPLOYEE OWNERSHIP AS SPECIFIED IN SECTION 24-48.5-102 (1)(a).

2 (b) THE OFFICE MAY ENTER INTO A CONTRACT WITH AN
3 EMPLOYEE-OWNED BUSINESS NONPROFIT ORGANIZATION TO PROMOTE
4 EMPLOYEE OWNERSHIP AS DESCRIBED IN SUBSECTION (3)(a) OF THIS
5 SECTION IF NECESSARY. THE SELECTION OF THE NONPROFIT MUST BE MADE
6 FOLLOWING AN OPEN AND COMPETITIVE PROCESS.

7 (4) (a) (I) EXCEPT AS PROVIDED IN SUBSECTION (4)(a)(II) OF THIS
8 SECTION, THE OFFICE SHALL ESTABLISH AND ADMINISTER A REVOLVING
9 LOAN PROGRAM TO ASSIST TRANSITIONS OF EXISTING BUSINESSES TO
10 EMPLOYEE-OWNED BUSINESSES.

11 (II) IF THE OFFICE DETERMINES IT WOULD BE MORE EFFICIENT AND
12 EFFECTIVE TO CONTRACT OUT THE PROGRAM, THE OFFICE MAY ENTER INTO
13 A CONTRACT WITH AN EMPLOYEE-OWNED BUSINESS NONPROFIT
14 ORGANIZATION, A BANK, OR A NONDEPOSITORY COMMUNITY
15 DEVELOPMENT FINANCIAL INSTITUTION TO ESTABLISH AND ADMINISTER
16 THE PROGRAM. THE SELECTION OF SUCH NONPROFIT, BANK, OR A
17 NONDEPOSITORY COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION
18 MUST BE MADE FOLLOWING AN OPEN AND COMPETITIVE PROCESS.

19 (III) THE OFFICE MAY WORK WITH THE COLORADO HOUSING AND
20 FINANCE AUTHORITY, CREATED IN PART 7 OF ARTICLE 4 OF TITLE 29, TO
21 ASSIST IN OFFERING LOANS UNDER THE PROGRAM.

22 (b) THE PROGRAM IS ONLY AVAILABLE FOR EXISTING BUSINESSES.

23 (c) LOANS OFFERED AS PART OF THE PROGRAM:

24 (I) MUST BE USED TO OBTAIN TECHNICAL ASSISTANCE OR FOR
25 TRANSITION PURPOSES AND MAY NOT BE USED TO PAY OFF OTHER DEBT,
26 FOR GENERAL OPERATING EXPENSES, OR FOR CAPITAL EXPENDITURES;

27 (II) MAY NOT BE IN AN AMOUNT GREATER THAN FIFTY PERCENT OF

1 THE COST OF TRANSITION, NOT TO EXCEED TEN THOUSAND DOLLARS; AND

2 (III) MUST BE HELD BY THE OWNER OF THE EXISTING BUSINESS.

3

4 (d) (I) THE OFFICE MAY ACCEPT AND EXPEND GIFTS, GRANTS AND
5 DONATIONS TO CAPITALIZE THE PROGRAM, AND MAY ANNUALLY KEEP THE
6 FIRST FIFTEEN PERCENT OF THE MONEY RAISED FOR ADMINISTRATION
7 PURPOSES. THE OFFICE SHALL TRANSMIT ALL MONEY RECEIVED THROUGH
8 GIFTS, GRANTS, AND DONATIONS TO THE STATE TREASURER, WHO SHALL
9 CREDIT THE MONEY TO THE REVOLVING LOAN PROGRAM CASH FUND,
10 WHICH FUND IS HEREBY CREATED. THE MONEY IN THE FUND IS
11 CONTINUOUSLY APPROPRIATED TO THE OFFICE. ALL INTEREST AND INCOME
12 DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEY IN THE FUND
13 REMAINS IN THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEY
14 REMAINING IN THE FUND AT THE END OF A FISCAL YEAR REMAINS IN THE
15 FUND AND MAY NOT BE CREDITED OR TRANSFERRED TO THE GENERAL
16 FUND OR ANY OTHER FUND.

17 (II) IF THE OFFICE HAS CONTRACTED WITH A NONPROFIT, BANK, OR
18 NONDEPOSITORY COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION, THE
19 OFFICE MAY ADVANCE MONEY IN THE FORM OF A GRANT OR PAYMENT TO
20 THE NONPROFIT, BANK, OR NONDEPOSITORY COMMUNITY DEVELOPMENT
21 FINANCIAL INSTITUTION PRIOR TO LOANS ACTUALLY BEING MADE.

22 (e) AS PART OF ADMINISTERING THE PROGRAM, THE OFFICE, OR, IF
23 CONTRACTED OUT, THE NONPROFIT, THE BANK, OR A NONDEPOSITORY
24 COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION, SHALL ESTABLISH AN
25 APPLICATION FEE, AN ORIGINATION FEE, AND CLOSING COST POLICIES, SET
26 ITS OWN UNDERWRITING AND RISK MANAGEMENT POLICIES, AND SHALL
27 DETERMINE INTEREST RATES, LOAN TERMS, AND MAXIMUM ASSISTANCE

1 LEVELS IN GUIDELINES ADOPTED BY THE OFFICE AND POSTED ON ITS
2 WEBSITE; EXCEPT THAT THE PROGRAM SHALL BE ADMINISTERED WITH A
3 GOAL OF GENERATING ENOUGH RETURN TO REPLENISH THE PROGRAM FOR
4 FUTURE LOAN ALLOCATIONS.

5 (5) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2022.

6 SECTION 2. In Colorado Revised Statutes, 24-48.5-102, amend
7 (1)(a) as follows:

8 24-48.5-102. Small business assistance center. (1) (a) In
9 addition to the powers and duties specified in section 24-48.5-101, the
10 Colorado office of economic development shall include the small
11 business assistance center, which shall provide comprehensive
12 information on the federal, state, and local requirements necessary to
13 begin a business and shall make this information available to the public.
14 THE OFFICE SHALL ALSO HAVE AVAILABLE COMPREHENSIVE INFORMATION
15 ON THE FORMS AND MERITS OF EMPLOYEE OWNERSHIP AND THE
16 REVOLVING LOAN PROGRAM DESCRIBED IN SECTION 24-48.5-124 (4).

17
18 SECTION 3. Safety clause. The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, and safety.