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HOUSE BILL 17-1214

BY REPRESENTATIVE(S) Coleman, Gray, Rosenthal, Arndt, Covarrubias, Melton, Becker K., Bridges, Buckner, Danielson, Esgar, Exum, Ginal, Hamner, Hansen, Herod, Hooton, Kennedy, Kraft-Tharp, Lebsock, Lontine, McLachlan, Michaelson Jenet, Pettersen, Salazar, Singer, Weissman, Winter, Young, Duran;
also SENATOR(S) Tate, Kerr, Williams A., Aguilar, Court, Donovan, Fenberg, Fields, Jones, Kefalas, Merrifield, Moreno, Todd.

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

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

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

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

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

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

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

(c) MANY SMALL BUSINESS OWNERS IN BOTH URBAN AND RURAL AREAS OF THE STATE DO NOT HAVE A SUCCESSION PLAN FOR THEIR RETIREMENT, AND AS THESE BUSINESS OWNERS RETIRE THERE WILL BE, NATIONALLY, APPROXIMATELY TEN TRILLION DOLLARS IN ASSETS UP FOR SALE;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(I) IS AT LEAST TWO YEARS OLD;

(II) HAS AT LEAST THREE EMPLOYEES;

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

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

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

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

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

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

(3) (a) NO LATER THAN SEPTEMBER 1, 2017, THE OFFICE SHALL ENGAGE WITH AN EMPLOYEE-OWNED BUSINESS NONPROFIT ORGANIZATION TO EDUCATE THE STAFF AT THE OFFICE ON THE FORMS AND MERITS OF EMPLOYEE OWNERSHIP IN ORDER FOR THE OFFICE TO BE ABLE TO PROMOTE EMPLOYEE OWNERSHIP AS SPECIFIED IN SECTION 24-48.5-102 (1)(a).

(b) THE OFFICE MAY ENTER INTO A CONTRACT WITH AN EMPLOYEE-OWNED BUSINESS NONPROFIT ORGANIZATION TO PROMOTE

EMPLOYEE OWNERSHIP AS DESCRIBED IN SUBSECTION (3)(a) OF THIS SECTION IF NECESSARY. THE SELECTION OF THE NONPROFIT MUST BE MADE FOLLOWING AN OPEN AND COMPETITIVE PROCESS.

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

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

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

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

(c) LOANS OFFERED AS PART OF THE PROGRAM:

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

(II) MAY NOT BE IN AN AMOUNT GREATER THAN FIFTY PERCENT OF THE COST OF TRANSITION, NOT TO EXCEED TEN THOUSAND DOLLARS; AND

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

(d) (I) THE OFFICE MAY ACCEPT AND EXPEND GIFTS, GRANTS, AND DONATIONS TO CAPITALIZE THE PROGRAM, AND MAY ANNUALLY KEEP THE FIRST FIFTEEN PERCENT OF THE MONEY RAISED FOR ADMINISTRATION PURPOSES. THE OFFICE SHALL TRANSMIT ALL MONEY RECEIVED THROUGH GIFTS, GRANTS, AND DONATIONS TO THE STATE TREASURER, WHO SHALL

CREDIT THE MONEY TO THE REVOLVING LOAN PROGRAM CASH FUND, WHICH FUND IS HEREBY CREATED. THE MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE OFFICE. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEY IN THE FUND REMAINS IN THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEY REMAINING IN THE FUND AT THE END OF A FISCAL YEAR REMAINS IN THE FUND AND MAY NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

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

(e) AS PART OF ADMINISTERING THE PROGRAM, THE OFFICE, OR, IF CONTRACTED OUT, THE NONPROFIT, THE BANK, OR THE NONDEPOSITORY COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION, SHALL ESTABLISH AN APPLICATION FEE, AN ORIGINATION FEE, AND CLOSING COST POLICIES, SET ITS OWN UNDERWRITING AND RISK MANAGEMENT POLICIES, AND SHALL DETERMINE INTEREST RATES, LOAN TERMS, AND MAXIMUM ASSISTANCE LEVELS IN GUIDELINES ADOPTED BY THE OFFICE AND POSTED ON ITS WEBSITE; EXCEPT THAT THE PROGRAM SHALL BE ADMINISTERED WITH A GOAL OF GENERATING ENOUGH RETURN TO REPLENISH THE PROGRAM FOR FUTURE LOAN ALLOCATIONS.

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

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

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

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

Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Kevin J. Grantham
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO