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HOUSE BILL 25-1296

BY REPRESENTATIVE(S) Garcia and Zokaie, Bacon, Boesenecker, Brown, Camacho, Lindsay, Mabrey, Rutinel, Sirota, Story, Titone, English, Ricks;
also SENATOR(S) Weissman, Amabile, Jodeh, Kipp.

CONCERNING THE ADJUSTMENT OF CERTAIN TAX EXPENDITURES.

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

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) (I) House Bill 24-1314 substantially modified the tax credit for qualified costs incurred in the preservation of historic structures by, among other things, expanding the amount of the tax credit available to taxpayers;

(II) As part of modifying the tax expenditure, House Bill 24-1314 also removed the 5% increase in the percentage of rehabilitation expenses incurred in a disaster area for the rehabilitation of a residential structure, but not a commercial structure, that are considered in determining the amount of the tax expenditure;

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(III) This act further modifies the tax expenditure by removing the 5% increase in the percentage of rehabilitation expenses incurred in a rehabilitation in a disaster area for the rehabilitation of a commercial structure that are considered in determining the amount of the tax expenditure;

(IV) The primary purpose of the modification of this tax expenditure is to decrease administrative burden by aligning the treatment of expenses incurred in rehabilitating residential and commercial historic structures; and

(V) The modification of this tax expenditure will cause only a de minimis revenue gain that is incidental to the primary purpose of modifying the tax expenditure;

(b) (I) One of the five primary categories of sales that are subject to state sales tax is intrastate telephone and telegraph services;

(II) Interstate telephone and telegraph services are not subject to state sales tax;

(III) Unlike Colorado, twenty-eight states subject interstate telephone and telegraph services to state sales tax if at least one of the nodes of those services is in the state levying the sales tax;

(IV) Like the state, many home rule municipalities in Colorado impose sales tax on intrastate telephone and telegraph services, meaning that some telephone and telegraph services are taxed while others are not;

(V) The primary purpose of repealing this tax expenditure is to further resolve taxpayer confusion and decrease administrative burden by repealing the sales tax exemption to make it clear that all telephone and telegraph services are subject to sales tax; and

(VI) The repeal of this tax expenditure will cause only a de minimis revenue gain that is incidental to the primary purpose of repealing the tax expenditure;

(c) (I) The purpose of the business personal property tax income tax credit is to minimize the negative impact of the business personal property tax on businesses;

(II) As referenced in the office of the state auditor's 2024 evaluation of the business personal property tax income tax credit, Colorado also exempts businesses with business personal property below a dollar threshold from filing and paying the tax altogether. That threshold is currently \$52,000. Only twelve other states have some type of exemption for business personal property. Unlike Colorado, no state has both an exemption and an income tax credit for business personal property taxes paid.

(III) The office of the state auditor's 2024 evaluation of the business personal property tax income tax credit indicated that less than 1% of business personal property taxpayers in the state claim the income tax credit and many of those credits were claimed erroneously or were miscalculated, suggesting that the cost of administering the income tax credit is larger than its benefit to taxpayers;

(IV) Taxpayers can already deduct property taxes as ordinary and necessary business expenses on their federal income tax returns, which also reduces their state tax liability, meaning that the business personal property tax income tax credit is partially duplicative; and

(V) Therefore, the purpose of repealing the business personal property tax income tax credit is to reduce administrative burden and increase administrative efficiency by removing a duplicative tax expenditure that is rarely being claimed. The repeal of this tax expenditure will only cause a de minimis revenue gain that is incidental to the primary purpose of repealing the tax expenditure.

(d) (I) The purpose of the enterprise zone investment tax credit, which awards a tax credit in proportion to the amount of a taxpayer's investment within certain areas of Colorado, is to incentivize the formation of businesses and the creation of jobs within economically distressed parts of Colorado;

(II) As referenced in the office of the state auditor's 2020 evaluation on the enterprise zone investment tax credit, most businesses that currently claim the enterprise zone investment tax credit are inherently highly location-dependent and therefore are not as incentivized or disincentivized by a tax expenditure that rewards investment within certain areas of Colorado;

(III) The purpose of limiting the amount of, and who may qualify for, the enterprise zone investment tax credit is to narrow the scope of the tax expenditure so that it will achieve its original purpose of incentivizing the formation of businesses and the creation of jobs within economically distressed parts of Colorado; and

(IV) The modification of this enterprise zone investment tax credit will cause only a de minimis revenue gain that is incidental to the primary purpose of modifying the enterprise zone investment tax credit to better achieve its original purpose; and

(e) Overall, the purpose of all of the modifications to tax expenditures in this House Bill 25-1296 is to better align the tax expenditures with the general assembly's intent in enacting these tax expenditures, to improve administrative efficiency, to reduce administrative burden, and to conform Colorado's tax code with provisions commonly used in other states so that Colorado is less of an outlier around the country in how taxpayers compute their taxes owed. Any revenue gained through the modifications to tax expenditures in this House Bill 25-1296, from modifications that narrow or expand tax expenditures, is clearly de minimis and incidental.

(f) Therefore, consistent with the Colorado supreme court's holding in *TABOR Found. v. Reg'l Transp. Dist.*, 2018 CO 29, that legislation that causes only an incidental and de minimis tax revenue increase does not amount to a new tax or a tax policy change that requires voter approval in advance under section 20 of article V of the state constitution, the modifications to tax expenditures in this act are neither new taxes nor tax policy changes that require voter approval.

SECTION 2. In Colorado Revised Statutes, 25-1.5-106, **amend** (16)(a) as follows:

25-1.5-106. Medical marijuana program - powers and duties of state health agency - rules - medical review board - medical marijuana program cash fund - subaccount - created - "Ethan's Law" - definitions - repeal. (16) **Fees.** (a) The state health agency may collect fees from patients who, pursuant to section 14 of article XVIII of the state constitution or subsection (9) of this section, apply to the medical marijuana program for a registry identification card for the purpose of offsetting the state health

agency's direct and indirect costs of administering the program. The amount of the fees shall be set by rule of the state health agency. The amount of the fees set pursuant to this section shall reflect the actual direct and indirect costs of the state licensing authority in the administration and enforcement of this ~~article~~ ARTICLE 1.5 so that the fees avoid exceeding the statutory limit on uncommitted reserves in administrative agency cash funds as set forth in section 24-75-402 (3). The state health agency shall not assess a medical marijuana registry application fee to an applicant who demonstrates, pursuant to a copy of the applicant's state tax return certified by the department of revenue OR A COPY OF THE APPLICANT'S FEDERAL TAX RETURN RECEIVED FROM THE INTERNAL REVENUE SERVICE, that the applicant's income does not exceed one hundred eighty-five percent of the federal poverty line, adjusted for family size. All fees collected by the state health agency through the medical marijuana program shall be transferred to the state treasurer who shall credit the same to the medical marijuana program cash fund, which fund is hereby created.

SECTION 3. In Colorado Revised Statutes, 10-3-209, **add** (6)(d) as follows:

10-3-209. Tax on premiums collected - exemptions - penalties - filing system - division to contract with third parties - rules - repeal. (6) (d) IN SUBMITTING TAXES, PENALTIES, FINES, FEES, AND ASSOCIATED FILINGS REQUIRED UNDER THIS SECTION TO THE DIVISION, AN INSURANCE COMPANY SHALL IDENTIFY THE TOTAL ANNUAL DOLLAR AMOUNT OF PREMIUMS COLLECTED OR CONTRACTED FOR ON POLICIES OR CONTRACTS OF INSURANCE COVERING PROPERTY OR RISKS IN COLORADO DURING THE PREVIOUS CALENDAR YEAR FROM ENTITIES THAT ARE EXEMPT FROM TAXATION PURSUANT TO SECTION 10-3-209 (1)(d)(IV).

SECTION 4. In Colorado Revised Statutes, 39-1-104.2, **amend** (3)(s)(I) introductory portion as follows:

39-1-104.2. Residential real property - valuation for assessment - legislative declaration - definitions. (3) (s) (I) For property tax years commencing on or after January 1, 2025, but before January 1, 2027, if ~~there are sufficient excess state revenues~~, the valuation for assessment for qualified-senior primary residence real property, including ~~multi-family~~ MULTIFAMILY qualified-senior primary residence real property, is:

SECTION 5. In Colorado Revised Statutes, 39-21-113, **add** (39) as follows:

39-21-113. Reports and returns - rule - repeal. (39) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THE EXECUTIVE DIRECTOR MAY PROVIDE TO THE DEPARTMENT OF EARLY CHILDHOOD SUCH DETAILED TAXPAYER INFORMATION PERTINENT TO A CLAIM FOR AN INCOME TAX CREDIT FOR AN EARLY CHILDHOOD EDUCATOR PURSUANT TO SECTION 39-22-547, AND SUCH DETAILED TAXPAYER INFORMATION PERTINENT TO A CLAIM FOR AN INCOME TAX CREDIT FOR A CARE WORKER PURSUANT TO SECTION 39-22-566. ANY INFORMATION PROVIDED PURSUANT TO THIS SUBSECTION (39) MUST REMAIN CONFIDENTIAL, AND ALL PERSONS ARE SUBJECT TO THE LIMITATIONS SPECIFIED IN SUBSECTION (4) OF THIS SECTION AND THE PENALTIES SPECIFIED IN SUBSECTION (6) OF THIS SECTION.

SECTION 6. In Colorado Revised Statutes, 39-22-104, **amend** (3)(t); and **add** (3)(u) as follows:

39-22-104. Income tax imposed on individuals, estates, and trusts - single rate - report - tax preference performance statement - legislative declaration - definitions - repeal. (3) There shall be added to the federal taxable income:

(t) For income tax years commencing on or after January 1, 2025, an amount equal to the amount of employer contribution that an employee forfeits pursuant to section 39-22-558 (3)(c) and that the taxpayer had previously subtracted from the taxpayer's federal taxable income pursuant to subsection (4)(bb) of this section; AND

(u) THE AMOUNT OF ANY OVERTIME COMPENSATION EXCLUDED OR DEDUCTED FROM FEDERAL GROSS INCOME.

SECTION 7. In Colorado Revised Statutes, 39-22-509, **amend** (2)(d) as follows:

39-22-509. Credit against tax - employer expenditures for alternative transportation options for employees - legislative declaration - definitions - repeal. (2) As used in this section, unless the context otherwise requires:

(d) "Local government" means any home rule city, town, COUNTY or city and county, ~~or~~ AND ANY statutory city, ~~or~~ town, OR COUNTY.

SECTION 8. In Colorado Revised Statutes, 39-22-514.5, **amend** (8)(c)(III) introductory portion as follows:

39-22-514.5. Tax credit for qualified costs incurred in preservation of historic structures - commercial historic preservation tax credit program cash fund - tax preference performance statement - legislative declaration - short title - definitions. (8) Deadline for incurring specified amount of estimated costs of rehabilitation - proof of compliance - audit of cost and expense certification - issuance of tax credit certificate - commercial structures. (c) Notwithstanding subsection (8)(b) of this section:

(III) FOR INCOME TAX YEARS COMMENCING PRIOR TO JANUARY 1, 2030, AND FOR APPLICATIONS SUBMITTED PURSUANT TO SUBSECTION (5) OF THIS SECTION PRIOR TO JANUARY 1, 2026, with respect to a certified historic structure that is a qualified commercial structure that is located in an area that the president of the United States has determined to be a major disaster area under section 102 (2) of the federal "Robert T. Stafford Disaster Relief and Emergency Assistance Act", 42 U.S.C. sec. 5121 et seq., or that is located in an area that the governor has determined to be a disaster area under the "Colorado Disaster Emergency Act", part 7 of article 33.5 of title 24, the tax credit amounts specified in subsections (8)(b)(I) and (8)(b)(II) of this section must be increased as follows for an application that is filed within six years after the disaster determination:

SECTION 9. In Colorado Revised Statutes, 39-22-517, **amend** (1), (2), and (4) as follows:

39-22-517. Tax credit for child care center investments - repeal. (1) With respect to taxable years commencing on or after January 1, 1992, and prior to ~~January 1, 2026~~ JANUARY 1, 2029, there is allowed to any person operating a child care center licensed pursuant to section 26-6-905 or 26.5-5-309, family child care home licensed pursuant to section 26.5-5-309, or foster care home licensed pursuant to section 26-6-905 a credit against the tax imposed by this article 22 in the amount of twenty percent of the taxpayer's annual investment in tangible personal property to be used in such child care center, family child care home, or foster care

home.

(2) With respect to taxable years commencing on or after July 1, 1992, and prior to ~~January 1, 2026~~ JANUARY 1, 2029, there is allowed to any sole proprietorship, partnership, limited liability corporation, subchapter S corporation, or regular corporation that provides child care facilities that are incidental to their business and are licensed pursuant to section 26-6-905 or 26.5-5-309 for the use of its employees a credit against the tax imposed by this article 22 in the amount of ten percent of the taxpayer's annual investment in tangible personal property to be used in such child care facilities.

(4) This section is repealed, effective ~~December 31, 2033~~ DECEMBER 31, 2036.

SECTION 10. In Colorado Revised Statutes, 39-22-537.5, **amend** (3)(a); and **add** (5) as follows:

39-22-537.5. Credit for personal property taxes paid - legislative declaration - definitions - repeal. (3) (a) For income tax years commencing on or after January 1, 2019, BUT BEFORE JANUARY 1, 2026, a taxpayer is allowed a credit against the tax imposed by this article 22 equal to the property tax paid in Colorado during the income tax year on up to eighteen thousand dollars of the total actual value of the taxpayer's personal property.

(5) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2036.

SECTION 11. In Colorado Revised Statutes, 39-22-544, **amend** (4)(c) as follows:

39-22-544. Credit against tax - qualifying seniors - creation - legislative declaration - definitions - repeal. (4) (c) (I) For the income tax year commencing on January 1, 2022, notwithstanding subsections (4)(a) and (4)(b) of this section, a taxpayer who also qualifies for a grant under article 31 of this title 39 during calendar year 2022 is eligible to receive the full credit without an income-based reduction that otherwise applies for the taxpayer under subsection (4)(a) or (4)(b) of this section.

(II) THIS SUBSECTION (4)(c) IS REPEALED, EFFECTIVE DECEMBER 31,

2026.

SECTION 12. In Colorado Revised Statutes, 39-22-566, **amend** (2)(j), (2)(k), and (2)(l) as follows:

39-22-566. Qualified care worker tax credit - tax preference performance statement - legislative declaration - definitions - repeal.
(2) As used in this section, unless the context otherwise requires:

(j) "Informal family friend or neighbor child care worker" means an individual described in section 26.5-5-304 (1)(f) who provides care for children other than their own who are five years of age or younger, EXCEPT THAT AN INFORMAL FAMILY FRIEND OR NEIGHBOR CHILD CARE WORKER IS NOT REQUIRED TO PROVIDE CARE IN THE INDIVIDUAL'S PERMANENT PLACE OF RESIDENCE.

(k) "Licensed early childhood education program" means an early childhood education program, as defined in section 26.5-2-202 (3), that held a valid license issued pursuant to part 3 of article 5 of title 26.5, ~~for at least six months~~ during the income tax year.

(l) "Licensed family child care home" means a family child care home, as defined in section 26.5-5-303 (7), that held a valid license issued pursuant to part 3 of article 5 of title 26.5, ~~for at least six months~~ during the income tax year.

SECTION 13. In Colorado Revised Statutes, 39-22-604, **amend** (3)(a), (3)(b), (4)(b), (5), (6)(a), (8), (10), (13), (16)(a), (16)(b)(I), and (20) as follows:

39-22-604. Withholding tax - requirement to withhold - tax lien - exemption from lien - annual statement - notice - definitions - repeal.
(3) (a) (I) Every employer making payment of wages shall deduct and withhold from wages an amount measured by a percentage or percentages of the total amount required to be deducted and withheld by an employer from wages of an employee for federal income tax purposes, or measured by withholding tax tables promulgated by the executive director, or by such other methods as the executive director may prescribe if such percentage, percentages, tables, or other methods result in the withholding from the employee's wages during each pay period an amount which shall

approximate as nearly as possible the income tax due to the state of Colorado by such employee.

(II) IN ADDITION TO THE AMOUNT REQUIRED TO BE DEDUCTED AND WITHHELD PURSUANT TO SUBSECTION (3)(a)(I) OF THIS SECTION, THE EXECUTIVE DIRECTOR MAY REQUIRE EVERY EMPLOYER MAKING PAYMENT OF COMPENSATION OTHER THAN WAGES TO DEDUCT AND WITHHOLD AN AMOUNT MEASURED BY A PERCENTAGE OR PERCENTAGES, OR MEASURED BY WITHHOLDING TAX TABLES ESTABLISHED BY THE EXECUTIVE DIRECTOR, OR BY SUCH OTHER METHODS AS THE EXECUTIVE DIRECTOR MAY PRESCRIBE IF SUCH PERCENTAGE, PERCENTAGES, TABLES, OR OTHER METHODS RESULT IN THE WITHHOLDING FROM THE OTHER COMPENSATION PAID TO AN EMPLOYEE DURING EACH PAY PERIOD AN AMOUNT WHICH SHALL APPROXIMATE AS NEARLY AS POSSIBLE THE INCOME TAX DUE TO THE STATE OF COLORADO BY SUCH EMPLOYEE ON SUCH OTHER COMPENSATION.

(b) The executive director may, upon written application, ~~having been made to him,~~ approve a method of withholding in lieu of the method provided in ~~paragraph (a) of this subsection (3)~~ SUBSECTION (3)(a) OF THIS SECTION to authorize a withholding based upon a percentage fixed by the executive director of the adjusted gross income, which percentage shall approximate as nearly as possible the amount of income tax due to the state of Colorado and as nearly as possible the ~~amount so~~ AMOUNTS REQUIRED TO BE deducted and withheld in ~~paragraph (a) of this subsection (3)~~ SUBSECTION (3)(a) OF THIS SECTION.

(4)(b) WHERE PRACTICABLE, the rules and regulations promulgated pursuant to this section shall not prescribe ~~filing or~~ INFORMATION REPORT, FILING, PAYMENT, OR withholding requirements which are more frequent or more stringent than corresponding federal requirements; EXCEPT THE EXECUTIVE DIRECTOR MAY PRESCRIBE ADDITIONAL OR DIFFERENT REQUIREMENTS WHEN NECESSARY FOR THE EFFICIENT ADMINISTRATION OF DIFFERENCES BETWEEN THE INTERNAL REVENUE CODE AND THIS ARTICLE 22.

(5) All amounts deducted and withheld shall be considered as tax collected under the provisions of this section and no employee shall have any right of action against ~~his~~ AN employer in respect to any ~~moneys so~~ AMOUNT deducted and withheld from ~~his~~ THE EMPLOYEE'S wages AND OTHER COMPENSATION and paid over to the department in compliance or in intended compliance with this section.

(6) (a) Every employer shall, in accordance with such rules as shall be prescribed by the department of revenue, provide each employee with a statement of the amounts ~~of moneys~~ deducted and withheld from such employee's wages AND OTHER COMPENSATION in accordance with the provisions of this section. Every employer shall also make an annual statement for each employee to the department of revenue, on such forms as are provided or approved by the department, a copy of which shall be provided each employee, summarizing the total compensation paid and the tax withheld for such employee during the preceding calendar year or any portion thereof, and the said annual statement shall be filed on or before the date established pursuant to section 6071 of the internal revenue code for filing similar federal statements. Failure to file the statements within the time prescribed therefor, unless shown to have been due to reasonable cause, or the willful filing or furnishing of false or fraudulent statements shall subject the employer to a penalty, at the discretion of the executive director, of not less than five dollars nor more than fifty dollars, which shall be in addition to any criminal penalty otherwise provided for failure to file a return or for filing a false or fraudulent return.

(8) The entire amount of income from wages AND OTHER COMPENSATION upon which tax was deducted and withheld shall be included in the gross income of the income tax return required to be made by the employee, the recipient of the wages AND OTHER COMPENSATION, without exclusion of such amounts deducted and withheld under this section, and any tax so deducted and withheld shall be credited against the total income tax, as computed in the employee's return, made in accordance with the provisions of this section.

(10) In the event the excess tax deducted and withheld is one dollar or less, no refund shall be made, unless a specific claim for refund is filed by the taxpayer at the time the return is filed. The excess, subject to being refunded, shall in no event and under no condition be allowed as a credit against any tax accruing on a return filed for a year subsequent to the year during which the wages OR OTHER COMPENSATION were received, and can only be credited against a tax accruing upon a return of wages OR OTHER COMPENSATION from which such excess was deducted and withheld.

(13) The department is empowered to make rules and regulations for the enforcement of the provisions of this section, including rules and regulations for determining the amount, up to but not exceeding the amount

limited in this section, to be deducted and withheld by employers from wages ~~of~~ AND OTHER COMPENSATION PAID TO nonresident employees, only a part of whose wages OR OTHER COMPENSATION are paid for services performed within the state of Colorado.

(16) (a) On or before the date of the commencement of employment with an employer, the employee shall furnish the employer with a signed withholding certificate. EXCEPT AS PROVIDED BY RULES ESTABLISHED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS SECTION, a comparable withholding certificate filed pursuant to the internal revenue code shall be deemed to satisfy the filing requirement under this subsection (16). Where necessary to cause the proper amount to be withheld, the executive director may adjust the employee's withholding to the amount properly allowable under the internal revenue code OR THIS SECTION.

(b) (I) To enforce the provisions of this section, the executive director may file with the employer a withholding certificate on behalf of the employee. Prior to the filing of such certificate, the executive director shall first notify the employee that the certificate previously filed by the employee is being examined and that the employee may submit satisfactory evidence ~~pursuant to the internal revenue code~~ within ten days of receipt of said notice as to the correct number of withholding exemptions and allowances. Should the executive director, after reviewing any evidence so submitted, find the certificate filed by the employee to be defective, the employer shall accept the certificate filed by the director in lieu of any certificate previously filed by the employee, and such certificate filed by the executive director shall thereafter form the basis for withholding FROM wages AND OTHER COMPENSATION as required by this section. The executive director may also require from the employer a copy of any withholding certificate signed by the employee.

(20) No amount is required to be deducted and withheld from an employee's wages OR OTHER COMPENSATION pursuant to this section for income tax due to the state if the employee's withholding certificate indicates that the compensation is eligible to be subtracted from federal taxable income pursuant to section 39-22-104 (4)(u).

SECTION 14. In Colorado Revised Statutes, 39-26-102, **amend** (19)(g) as follows:

39-26-102. Definitions - repeal. As used in this article 26, unless the context otherwise requires:

(19) (g) (I) (A) For purposes of this subsection (19), BEFORE JULY 1, 2025, "agricultural commodities" does not include products regulated under article 10 of title 44.

(B) THIS SUBSECTION (19)(g)(I) IS REPEALED, EFFECTIVE JULY 1, 2026.

(II) FOR PURPOSES OF THIS SUBSECTION (19), ON OR AFTER JULY 1, 2025, "AGRICULTURAL COMMODITIES" INCLUDES PRODUCTS REGULATED UNDER ARTICLE 10 OF TITLE 44.

SECTION 15. In Colorado Revised Statutes, 39-26-104, **add** (1)(c.5) as follows:

39-26-104. Property and services taxed - definitions. (1) There is levied and there shall be collected and paid a tax in the amount stated in section 39-26-106 as follows:

(c.5) (I) BEGINNING JULY 1, 2025, UPON TELEPHONE AND TELEGRAPH SERVICES, WHETHER FURNISHED BY PUBLIC OR PRIVATE CORPORATIONS OR ENTERPRISES FOR INTERSTATE TELEPHONE AND TELEGRAPH SERVICE, IF THE TELEPHONE AND TELEGRAPH SERVICE ORIGINATES OR TERMINATES IN THE STATE AND IS CHARGED TO A COLORADO ADDRESS.

(II) IN ACCORDANCE WITH THE FEDERAL "MOBILE TELECOMMUNICATIONS SOURCING ACT", 4 U.S.C. SECS. 116 TO 126, AS AMENDED, MOBILE TELECOMMUNICATION SERVICE PROVIDED TO A CUSTOMER WHOSE PLACE OF PRIMARY USE IS OUTSIDE OF THE BORDERS OF THE STATE OF COLORADO IS EXEMPT FROM THE TAX IMPOSED BY THIS SECTION.

(III) A TAXPAYER WHO PAYS A TAX LEGALLY IMPOSED BY ANOTHER STATE ON A TELEPHONE OR TELEGRAPH SERVICE THAT IS TAXABLE PURSUANT TO THIS SUBSECTION (1)(c.5) IS ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS SECTION IN AN AMOUNT EQUAL TO THE AMOUNT OF THE TAX IMPOSED ON A TELEPHONE OR TELEGRAPH SERVICE BY THE OTHER STATE. A CREDIT ALLOWED PURSUANT TO THIS SUBSECTION (1)(c.5)(III)

SHALL NOT EXCEED THE TAX IMPOSED ON A TELEPHONE OR TELEGRAPH SERVICE PURSUANT TO THIS SECTION.

SECTION 16. In Colorado Revised Statutes, **amend** 39-26-726 as follows:

39-26-726. Medical marijuana - debilitating conditions and ability to purchase. (1) All sales of medical marijuana to a patient who is determined to be indigent for purposes of waiving the fee required by section 25-1.5-106 ~~C.R.S., shall be~~ ARE exempt from taxation under part 1 of this ~~article~~ ARTICLE 26. If the patient is determined to be indigent, the state health agency shall mark ~~his or her~~ THE PATIENT'S registry identification card as such and the patient shall present the card to the licensed medical marijuana center to receive the tax exemption.

(2) ON OR AFTER JULY 1, 2025, ALL SALES OF MEDICAL MARIJUANA TO AN INDIVIDUAL WHO PRESENTS A VALID ELECTRONIC BENEFITS TRANSFER CARD OR OTHER FORM OF IDENTIFICATION USED TO RECEIVE STATE OR FEDERAL BENEFITS AT THE TIME OF SALE TO A LICENSED MEDICAL MARIJUANA CENTER ARE EXEMPT FROM TAXATION UNDER PART 1 OF THIS ARTICLE 26.

SECTION 17. In Colorado Revised Statutes, 39-30-104, **amend** (1)(a), (2)(c)(I) introductory portion, (2)(c)(I)(B), (2)(c)(III), and (2)(c)(IV); **repeal** (2)(b); and **repeal and reenact, with amendments**, (2.5) as follows:

39-30-104. Credit against tax - investment in certain property - definitions - repeal. (1) (a) (I) There ~~shall be~~ IS allowed to any person as a credit against the tax imposed by article 22 of this title 39, for income tax years commencing on or after January 1, 1986, an amount equal to the total of three percent of the total qualified investment, as determined under section 46 (c)(2) of the federal "Internal Revenue Code of 1986", as amended, in such taxable year in qualified property as defined in section 48 of the internal revenue code to the extent that such investment is in property that is used solely and exclusively in an enterprise zone for at least one year. The references in this subsection (1) to sections 46 (c)(2) and 48 of the internal revenue code mean sections 46 (c)(2) and 48 of the internal revenue code as they existed immediately prior to the enactment of the federal "Revenue Reconciliation Act of 1990".

(II) (A) NOTWITHSTANDING SUBSECTION (1)(a)(I) OF THIS SECTION, FOR CREDITS ALLOWED BEGINNING IN INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2026, A TAXPAYER IS NOT ALLOWED A TOTAL CREDIT AMOUNT AGAINST THE TAX IMPOSED BY ARTICLE 22 OF THIS TITLE 39 PURSUANT TO SUBSECTION (1)(a)(I) OF THIS SECTION IN EXCESS OF TWO MILLION DOLLARS AND A TAXPAYER MAY NOT CLAIM A CREDIT PURSUANT TO THIS SUBSECTION (1)(a) IF THE QUALIFIED PROPERTY IS DIRECTLY USED IN THE RETAIL SALE OF GASOLINE OR DIESEL FUEL FOR USE IN MOTOR VEHICLES OR A WIRELESS TELECOMMUNICATIONS FACILITY.

(B) A TAXPAYER MAY SEEK A WAIVER OF THE LIMITATION ON THE AMOUNT OF CREDIT ESTABLISHED IN SUBSECTION (1)(a)(II)(A) OF THIS SECTION BY COMPLETING A WRITTEN APPLICATION TO THE COLORADO ECONOMIC DEVELOPMENT COMMISSION FOR PERMISSION TO BE ALLOWED A CREDIT IN EXCESS OF THAT LIMITATION FOR THE INCOME TAX YEAR IN WHICH THE TOTAL QUALIFIED INVESTMENT IS MADE. THE APPLICATION MUST INCLUDE IDENTIFICATION OF THE SUBSTANTIAL POSITIVE IMPACT THAT THE WAIVER OF THE LIMITATION WOULD HAVE ON INVESTMENTS AND ON WELL-PAYING JOBS IN THE ENTERPRISE ZONE, DOCUMENTATION THAT DEMONSTRATES THAT WITHOUT THE WAIVER OF THE LIMITATION THE SUBSTANTIAL POSITIVE IMPACT ON INVESTMENTS AND ON WELL-PAYING JOBS IN THE ENTERPRISE ZONE IS NOT LIKELY TO OCCUR, AND INFORMATION THAT THE WAIVER OF THE LIMITATION IS A SUBSTANTIAL FACTOR IN THE TAXPAYER'S DECISION TO MAKE A QUALIFIED INVESTMENT IN THE START-UP, RETENTION, EXPANSION, OR RELOCATION OF THE TAXPAYER'S BUSINESS, SUCH THAT WITHOUT THE WAIVER THE TAXPAYER IS NOT LIKELY TO MAKE THE QUALIFIED INVESTMENT. IN DECIDING WHETHER TO GRANT THE WAIVER OF THE LIMITATION, THE COMMISSION MUST CONSIDER THE OVERALL ECONOMIC HEALTH OF THIS STATE AND THE ECONOMIC VIABILITY OF THE ARGUMENTS MADE BY THE TAXPAYER IN SUPPORT OF THE TAXPAYER'S APPLICATION. THE COLORADO ECONOMIC DEVELOPMENT COMMISSION MAY REQUIRE THE TAXPAYER TO PROVIDE AN INDEPENDENT ANALYSIS, AT THE TAXPAYER'S EXPENSE, THAT SUBSTANTIATES THE TAXPAYER'S ARGUMENTS IN SUPPORT OF THE APPLICATION. THE TAXPAYER'S APPLICATION MUST BE CONSIDERED AT A REGULARLY SCHEDULED MEETING OF THE COLORADO ECONOMIC DEVELOPMENT COMMISSION AT WHICH THE PUBLIC IS ALLOWED TO COMMENT.

(C) THE COLORADO ECONOMIC DEVELOPMENT COMMISSION MAY ALLOW ALL, PART, OR NONE OF A TAXPAYER'S APPLICATION TO WAIVE THE

LIMITATION ON THE AMOUNT OF CREDIT ESTABLISHED IN SUBSECTION (1)(a)(II)(A) OF THIS SECTION. THE COLORADO ECONOMIC DEVELOPMENT COMMISSION MUST ISSUE A CREDIT CERTIFICATE THAT SETS FORTH THE AMOUNT OF THE CREDIT THAT THE TAXPAYER IS ALLOWED FOR THE INCOME TAX YEAR IN WHICH THE TOTAL QUALIFIED INVESTMENT IS MADE. THE TAXPAYER SHALL SUBMIT THE CREDIT CERTIFICATE TO THE DEPARTMENT OF REVENUE WITH THE TAXPAYER'S INCOME TAX RETURN FOR THE TAX YEAR FOR WHICH THE COLORADO ECONOMIC DEVELOPMENT COMMISSION ISSUED THE CREDIT CERTIFICATE.

(D) IF THE COLORADO ECONOMIC DEVELOPMENT COMMISSION APPROVES, IN WHOLE OR IN PART, A TAXPAYER'S APPLICATION TO WAIVE THE LIMITATION ON THE AMOUNT OF CREDIT ESTABLISHED IN SUBSECTION (1)(a)(II)(A) OF THIS SECTION, THE COLORADO ECONOMIC DEVELOPMENT COMMISSION SHALL INCLUDE ITS DECISION IN THE ENTERPRISE ZONE ANNUAL REPORT TO THE GENERAL ASSEMBLY, INCLUDING THE TAXPAYER'S NAME, THE AMOUNT OF THE CREDIT THAT THE COMMISSION ALLOWED, AND THE COLORADO ECONOMIC DEVELOPMENT COMMISSION'S JUSTIFICATION FOR APPROVING THE APPLICATION.

(E) FOR PURPOSES OF THIS SUBSECTION (1)(a), "WIRELESS TELECOMMUNICATIONS FACILITY" OR "FACILITY" MEANS EQUIPMENT AT A FIXED LOCATION THAT ENABLES WIRELESS COMMUNICATIONS BETWEEN USER EQUIPMENT AND A COMMUNICATIONS NETWORK, INCLUDING MACRO AND SMALL WIRELESS FACILITIES, TRANSCEIVERS, ANTENNAS, BACKUP POWER SUPPLIES, AND COMPARABLE EQUIPMENT, REGARDLESS OF TECHNOLOGICAL CONFIGURATION; AND THE SUPPORT STRUCTURE OR IMPROVEMENTS ON, UNDER, OR WITHIN WHICH THE EQUIPMENT IS COLLOCATED.

~~(2) (b) In addition to the limitations set forth in paragraph (a) of this subsection (2), for income tax years commencing on or after January 1, 2011, but prior to January 1, 2014, any taxpayer that is eligible to claim a credit pursuant to subsection (1) of this section in excess of five hundred thousand dollars shall defer claiming any amount of the credit allowed pursuant to this section that exceeds five hundred thousand dollars until an income tax year commencing on or after January 1, 2014. The five hundred thousand dollar limitation specified in this paragraph (b) shall apply to any credit allowed in the income tax years commencing on or after January 1, 2011, but prior to January 1, 2014, including any amount carried forward from a prior year.~~

(c) (I) For income tax years commencing on or after January 1, 2014, except as provided in ~~section~~ SECTIONS 24-46-104.3 AND 24-46-108 and subsection (2)(c)(II) of this section, the amount that may be claimed by a taxpayer for an income tax year and that is not applied or refunded under section 24-46-108 is limited to the lesser of:

(B) Seven hundred fifty thousand dollars plus any investment tax credit carryovers previously allowed in subsection (2.5) of this section FOR INVESTMENTS MADE IN INCOME TAX YEARS COMMENCING BEFORE JANUARY 1, 2014.

(III) (A) Except as otherwise provided in sections 24-46-104.3 ~~24-46-107~~, and 24-46-108 and subsection (2)(c)(III)(B) of this section, any excess credit allowed pursuant to this subsection (2)(c) shall be an investment tax credit carryover to each of the fourteen income tax years following the unused credit year.

(B) Except as otherwise provided in ~~sections~~ SECTION 24-46-104.3, ~~and 24-46-107~~, any excess credit allowed pursuant to this subsection (2)(c) for a renewable energy investment made in an income tax year commencing before January 1, 2018, shall be an investment tax credit carryover for twenty-two income tax years following the year the credit was originally allowed.

(IV) The limitation contained in this ~~paragraph (c)~~ SUBSECTION (2)(c) on the amount a taxpayer may claim for the income tax year in which the total qualified investment is made does not limit the total amount of the credit allowed under ~~subsection (1)~~ SUBSECTION (1)(a) of this section, nor does it limit the ability of a taxpayer to ~~carryover~~ CARRY OVER a credit to subsequent tax years as allowed in ~~subparagraph (III) of this paragraph (c)~~ SUBSECTION (2)(c)(III) OF THIS SECTION or previously allowed in subsection (2.5) of this section FOR INVESTMENTS MADE IN INCOME TAX YEARS COMMENCING BEFORE JANUARY 1, 2014.

(2.5) (a) (I) Notwithstanding section 39-22-507.5 (7)(b), except as provided in ~~sections~~ SECTION 24-46-107 ~~and 24-46-108~~, and except as otherwise provided in subsections (2.5)(a)(II) and (2.5)(b) of this section, any excess credit allowed pursuant to this section ~~and not applied or refunded under section 24-46-108~~ FOR AN INVESTMENT MADE IN AN INCOME TAX YEAR COMMENCING BEFORE JANUARY 1, 2014, shall be an investment

tax credit carryover to each of the twelve income tax years following the unused credit year.

(II) Except as provided in section 24-46-107, any excess credit claimed pursuant to this section for a renewable energy investment made in an income tax year commencing before ~~January 1, 2018, shall be~~ JANUARY 1, 2014, is an investment tax credit carryover for twenty income tax years following the year the credit was originally allowed.

(b)(I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2011, BUT PRIOR TO JANUARY 1, 2014, ANY TAXPAYER THAT IS ELIGIBLE TO CLAIM A CREDIT PURSUANT TO SUBSECTION (1) OF THIS SECTION IN EXCESS OF FIVE HUNDRED THOUSAND DOLLARS SHALL DEFER CLAIMING ANY AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THIS SECTION THAT EXCEEDS FIVE HUNDRED THOUSAND DOLLARS UNTIL AN INCOME TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2014. THE FIVE-HUNDRED-THOUSAND-DOLLAR LIMITATION SPECIFIED IN THIS SUBSECTION (2.5)(b) APPLIES TO ANY CREDIT ALLOWED IN THE INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2011, BUT PRIOR TO JANUARY 1, 2014, INCLUDING ANY AMOUNT CARRIED FORWARD FROM A PRIOR YEAR.

(II) EXCEPT AS PROVIDED IN SECTION 24-46-107 AND SUBSECTION (2.5)(b)(III) OF THIS SECTION, A TAXPAYER THAT DEFERRED CLAIMING ANY CREDIT IN EXCESS OF FIVE HUNDRED THOUSAND DOLLARS DURING AN INCOME TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2011, BUT PRIOR TO JANUARY 1, 2014, PURSUANT TO SUBSECTION (2.5)(b)(I) OF THIS SECTION SHALL BE ALLOWED TO CLAIM THE DEFERRED CREDIT AS AN INVESTMENT TAX CREDIT CARRYOVER FOR TWELVE INCOME TAX YEARS FOLLOWING THE YEAR THE CREDIT WAS ORIGINALLY ALLOWED PLUS ONE ADDITIONAL INCOME TAX YEAR FOR EACH INCOME TAX YEAR THAT THE CREDIT WAS DEFERRED PURSUANT TO SUBSECTION (2.5)(b)(I) OF THIS SECTION.

(III) EXCEPT AS PROVIDED IN SECTION 24-46-107, A TAXPAYER IS ALLOWED TO CLAIM THE DEFERRED CREDIT DESCRIBED IN SUBSECTION (2.5)(b)(II) OF THIS SECTION FOR A RENEWABLE ENERGY INVESTMENT MADE IN AN INCOME TAX YEAR COMMENCING BEFORE JANUARY 1, 2014, AS AN INVESTMENT TAX CREDIT CARRYOVER FOR TWENTY INCOME TAX YEARS FOLLOWING THE YEAR THE CREDIT WAS ORIGINALLY ALLOWED PLUS ONE ADDITIONAL INCOME TAX YEAR FOR EACH INCOME TAX YEAR THAT THE CREDIT WAS DEFERRED PURSUANT TO SUBSECTION (2.5)(b)(I) OF THIS

SECTION.

(c) THIS SUBSECTION (2.5) IS REPEALED, EFFECTIVE JANUARY 1, 2040.

SECTION 18. Effective date - applicability. This act takes effect upon passage; except that section 6 takes effect January 1, 2026.

SECTION 19. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for

the support and maintenance of the departments of the state and state institutions.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO