

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

PREAMENDED

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

LLS NO. 25-0888.02 Pierce Lively x2059

HOUSE BILL 25-1296

HOUSE SPONSORSHIP

Garcia and Zokaie,

SENATE SPONSORSHIP

Weissman,

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE ADJUSTMENT OF CERTAIN TAX EXPENDITURES.**

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 adjusts several state tax expenditures as follows:

- **Section 2** of the bill increases the amount of a company's total domestic workforce that must be in Colorado for a company to qualify for the insurance premium tax rate tax expenditure for a home office or regional home office;
- **Section 3** requires insurance companies, when submitting certain filings with the division of insurance, to submit the total annual dollar amount of premiums collected or

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

- 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;
- **Section 6** limits the existing tax deduction related to expenses, the deduction of which is disallowed by section 280C of the internal revenue code, so that a taxpayer may only claim the tax deduction for income tax years commencing before January 1, 2026;
 - **Section 10**, for income tax years commencing on and after January 1, 2026, creates a new tax deduction related to expenses, the deduction of which is disallowed by section 280C of the internal revenue code, so that a taxpayer may claim the deduction for any expenses that cannot be deducted under section 280C of the internal revenue code;
 - **Section 7** limits the alternative minimum tax credit to income tax years commencing prior to January 1, 2025;
 - **Section 8** extends the tax credit for monetary contributions to promote child care, so that the tax credit is available through income tax years commencing before January 1, 2030, rather than January 1, 2028;
 - **Section 9**, for income tax years commencing on and after January 1, 2026, creates an income tax credit for certain individuals who are 65 years of age or older in the income tax year, or who are a surviving spouse of that individual, and who were previously eligible to receive a grant for real property tax assistance and heat or fuel expenses assistance;
 - **Section 20**, beginning January 1, 2026, ends the availability of grants for real property tax assistance and heat or fuel expenses assistance;
 - **Sections 4, 5, 14, 15, 21, 22, and 23** make conforming amendments for the changes made in **sections 9 and 20**;
 - **Section 11** expands the definition of local government to include counties for purposes of the alternative transportation options tax credit;
 - **Section 12** limits the existing business personal property tax credit so that a taxpayer may only claim the tax deduction for income tax years commencing before January 1, 2026;
 - **Section 13** modifies the tax credit for qualified costs incurred in preservation of historic structures 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 applicable for the tax credit;

- **Section 16** modifies the downloaded software sales tax exemption so that all software that is available for repeated sale and license and governed by a nonnegotiable license agreement qualifies as tangible property and thus is subject to sales tax;
- **Section 17** ensures that, beginning July 1, 2025, interstate telephone and telegraph services are subject to state sales tax;
- **Section 18** repeals, effective July 1, 2025, the special fuel excise tax reduction associated with bad debt and the payment of the special fuel excise tax; and
- **Section 19** modifies the enterprise zone tax credit for income tax years beginning January 1, 2026, by limiting the total amount of the credit that may be claimed to \$2 million, providing an exemption process for that limit, and prohibiting certain taxpayers from claiming that credit.

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

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

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

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

13 (III) This act further modifies the tax expenditure by removing the
14 5% increase in the percentage of rehabilitation expenses incurred in a
15 rehabilitation in a disaster area for the rehabilitation of a commercial
16 structure that are considered in determining the amount of the tax

1 expenditure;

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

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

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

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

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

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

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

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

26 (c) (I) The purpose of the business personal property tax income
27 tax credit is to minimize the negative impact of the business personal

1 property tax on businesses;

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

10 (III) The office of the state auditor's 2024 evaluation of the
11 business personal property tax income tax credit indicated that less than
12 1% of business personal property taxpayers in the state claim the income
13 tax credit and many of those credits were claimed erroneously or were
14 miscalculated, suggesting that the cost of administering the income tax
15 credit is larger than its benefit to taxpayers;

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

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

26 (d) (I) The purpose of the enterprise zone investment tax credit,
27 which awards a tax credit in proportion to the amount of a taxpayer's

1 investment within certain areas of Colorado, is to incentivize the
2 formation of businesses and the creation of jobs within economically
3 distressed parts of Colorado;

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

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

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

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

1 expenditures, is clearly de minimis and incidental.

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

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

11 **25-1.5-106. Medical marijuana program - powers and duties**
12 **of state health agency - rules - medical review board - medical**
13 **marijuana program cash fund - subaccount - created - "Ethan's**
14 **Law" - definitions - repeal. (16) Fees.** (a) The state health agency may
15 collect fees from patients who, pursuant to section 14 of article XVIII of
16 the state constitution or subsection (9) of this section, apply to the medical
17 marijuana program for a registry identification card for the purpose of
18 offsetting the state health agency's direct and indirect costs of
19 administering the program. The amount of the fees shall be set by rule of
20 the state health agency. The amount of the fees set pursuant to this section
21 shall reflect the actual direct and indirect costs of the state licensing
22 authority in the administration and enforcement of this article so that the
23 fees avoid exceeding the statutory limit on uncommitted reserves in
24 administrative agency cash funds as set forth in section 24-75-402 (3).
25 The state health agency shall not assess a medical marijuana registry
26 application fee to an applicant who demonstrates, pursuant to a copy of
27 the applicant's state tax return certified by the department of revenue OR

1 A COPY OF THE APPLICANT'S FEDERAL TAX RETURN RECEIVED FROM THE
2 INTERNAL REVENUE SERVICE, that the applicant's income does not exceed
3 one hundred eighty-five percent of the federal poverty line, adjusted for
4 family size. All fees collected by the state health agency through the
5 medical marijuana program shall be transferred to the state treasurer who
6 shall credit the same to the medical marijuana program cash fund, which
7 fund is hereby created.

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

10 **10-3-209. Tax on premiums collected - exemptions - penalties**
11 **- filing system - division to contract with third parties - rules - repeal.**

12 (6) (d) IN SUBMITTING TAXES, PENALTIES, FINES, FEES, AND ASSOCIATED
13 FILINGS REQUIRED UNDER THIS SECTION TO THE DIVISION, AN INSURANCE
14 COMPANY SHALL IDENTIFY THE TOTAL ANNUAL DOLLAR AMOUNT OF
15 PREMIUMS COLLECTED OR CONTRACTED FOR ON POLICIES OR CONTRACTS
16 OF INSURANCE COVERING PROPERTY OR RISKS IN COLORADO DURING THE
17 PREVIOUS CALENDAR YEAR FROM ENTITIES THAT ARE EXEMPT FROM
18 TAXATION PURSUANT TO SECTION 10-3-209 (1)(d)(IV).

19 **SECTION 4.** In Colorado Revised Statutes, 39-21-113, **add** (37)
20 as follows:

21 **39-21-113. Reports and returns - rule - repeal.**

22 (37) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THE
23 EXECUTIVE DIRECTOR MAY PROVIDE TO THE DEPARTMENT OF EARLY
24 CHILDHOOD SUCH DETAILED TAXPAYER INFORMATION PERTINENT TO A
25 CLAIM FOR AN INCOME TAX CREDIT FOR AN EARLY CHILDHOOD EDUCATOR
26 PURSUANT TO SECTION 39-22-547, AND SUCH DETAILED TAXPAYER
27 INFORMATION PERTINENT TO A CLAIM FOR AN INCOME TAX CREDIT FOR A

1 CARE WORKER PURSUANT TO SECTION 39-22-566. ANY INFORMATION
2 PROVIDED PURSUANT TO THIS SUBSECTION (37) MUST REMAIN
3 CONFIDENTIAL, AND ALL PERSONS ARE SUBJECT TO THE LIMITATIONS
4 SPECIFIED IN SUBSECTION (4) OF THIS SECTION AND THE PENALTIES
5 SPECIFIED IN SUBSECTION (6) OF THIS SECTION.

6 **SECTION 5.** In Colorado Revised Statutes, 39-22-104, **amend**
7 **(3)(t); and add (3)(u) as follows:**

8 **39-22-104. Income tax imposed on individuals, estates, and**
9 **trusts - single rate - report - tax preference performance statement**
10 **- legislative declaration - definitions - repeal.** (3) There shall be added
11 to the federal taxable income:

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

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

19 **SECTION 6.** In Colorado Revised Statutes, 39-22-509, **amend**
20 **(2)(d) as follows:**

21 **39-22-509. Credit against tax - employer expenditures for**
22 **alternative transportation options for employees - legislative**
23 **declaration - definitions - repeal.** (2) As used in this section, unless the
24 context otherwise requires:

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

27 **SECTION 7.** In Colorado Revised Statutes, 39-22-514.5, **amend**

1 (8)(c)(III) introductory portion as follows:

2 **39-22-514.5. Tax credit for qualified costs incurred in**
3 **preservation of historic structures - commercial historic preservation**
4 **tax credit program cash fund - tax preference performance statement**
5 **- legislative declaration - short title - definitions. (8) Deadline for**
6 **incurring specified amount of estimated costs of rehabilitation - proof**
7 **of compliance - audit of cost and expense certification - issuance of**
8 **tax credit certificate - commercial structures. (c) Notwithstanding**
9 subsection (8)(b) of this section:

10 (III) FOR INCOME TAX YEARS COMMENCING PRIOR TO JANUARY 1,
11 2030, AND FOR APPLICATIONS SUBMITTED PURSUANT TO SUBSECTION (5)
12 OF THIS SECTION PRIOR TO JANUARY 1, 2026, with respect to a certified
13 historic structure that is a qualified commercial structure that is located
14 in an area that the president of the United States has determined to be a
15 major disaster area under section 102 (2) of the federal "Robert T.
16 Stafford Disaster Relief and Emergency Assistance Act", 42 U.S.C. sec.
17 5121 et seq., or that is located in an area that the governor has determined
18 to be a disaster area under the "Colorado Disaster Emergency Act", part
19 7 of article 33.5 of title 24, the tax credit amounts specified in subsections
20 (8)(b)(I) and (8)(b)(II) of this section must be increased as follows for an
21 application that is filed within six years after the disaster determination:

22 **SECTION 8.** In Colorado Revised Statutes, 39-22-517, **amend**
23 (1), (2), and (4) as follows:

24 **39-22-517. Tax credit for child care center investments -**
25 **repeal.** (1) With respect to taxable years commencing on or after January
26 1, 1992, and prior to ~~January 1, 2026~~ JANUARY 1, 2029, there is allowed
27 to any person operating a child care center licensed pursuant to section

1 26-6-905 or 26.5-5-309, family child care home licensed pursuant to
2 section 26.5-5-309, or foster care home licensed pursuant to section
3 26-6-905 a credit against the tax imposed by this article 22 in the amount
4 of twenty percent of the taxpayer's annual investment in tangible personal
5 property to be used in such child care center, family child care home, or
6 foster care home.

7 (2) With respect to taxable years commencing on or after July 1,
8 1992, and prior to ~~January 1, 2026~~ JANUARY 1, 2029, there is allowed to
9 any sole proprietorship, partnership, limited liability corporation,
10 subchapter S corporation, or regular corporation that provides child care
11 facilities that are incidental to their business and are licensed pursuant to
12 section 26-6-905 or 26.5-5-309 for the use of its employees a credit
13 against the tax imposed by this article 22 in the amount of ten percent of
14 the taxpayer's annual investment in tangible personal property to be used
15 in such child care facilities.

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

18 **SECTION 9.** In Colorado Revised Statutes, 39-22-537.5, **amend**
19 (3)(a); and **add** (5) as follows:

20 **39-22-537.5. Credit for personal property taxes paid -**
21 **legislative declaration - definitions - repeal.** (3) (a) For income tax
22 years commencing on or after January 1, 2019, BUT BEFORE JANUARY 1,
23 2026, a taxpayer is allowed a credit against the tax imposed by this article
24 22 equal to the property tax paid in Colorado during the income tax year
25 on up to eighteen thousand dollars of the total actual value of the
26 taxpayer's personal property.

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

1 **SECTION 10.** In Colorado Revised Statutes, 39-22-544, **amend**
2 (4)(c) as follows:

3 **39-22-544. Credit against tax - qualifying seniors - creation -**
4 **legislative declaration - definitions - repeal.** (4) (c) (I) For the income
5 tax year commencing on January 1, 2022, notwithstanding subsections
6 (4)(a) and (4)(b) of this section, a taxpayer who also qualifies for a grant
7 under article 31 of this title 39 during calendar year 2022 is eligible to
8 receive the full credit without an income-based reduction that otherwise
9 applies for the taxpayer under subsection (4)(a) or (4)(b) of this section.

10 (II) THIS SUBSECTION (4)(c) IS REPEALED, EFFECTIVE DECEMBER
11 31, 2026.

12 **SECTION 11.** In Colorado Revised Statutes, 39-22-566, **amend**
13 (2)(j), (2)(k), and (2)(l) as follows:

14 **39-22-566. Qualified care worker tax credit - tax preference**
15 **performance statement - legislative declaration - definitions - repeal.**

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

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

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

27 (l) "Licensed family child care home" means a family child care

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

4 **SECTION 12.** In Colorado Revised Statutes, 39-22-604, **amend**
5 (3)(a), (3)(b), (4)(b), (5), (6)(a), (8), (10), (13), (16)(a), (16)(b)(I), and
6 (20) as follows:

7 **39-22-604. Withholding tax - requirement to withhold - tax**
8 **lien - exemption from lien - annual statement - notice - definitions -**
9 **repeal.** (3) (a) (I) Every employer making payment of wages shall deduct
10 and withhold from wages an amount measured by a percentage or
11 percentages of the total amount required to be deducted and withheld by
12 an employer from wages of an employee for federal income tax purposes,
13 or measured by withholding tax tables promulgated by the executive
14 director, or by such other methods as the executive director may prescribe
15 if such percentage, percentages, tables, or other methods result in the
16 withholding from the employee's wages during each pay period an
17 amount which shall approximate as nearly as possible the income tax due
18 to the state of Colorado by such employee.

19 (II) IN ADDITION TO THE AMOUNT REQUIRED TO BE DEDUCTED AND
20 WITHHELD PURSUANT TO SUBSECTION (3)(a)(I) OF THIS SECTION, THE
21 EXECUTIVE DIRECTOR MAY REQUIRE EVERY EMPLOYER MAKING PAYMENT
22 OF COMPENSATION OTHER THAN WAGES TO DEDUCT AND WITHHOLD AN
23 AMOUNT MEASURED BY A PERCENTAGE OR PERCENTAGES, OR MEASURED
24 BY WITHHOLDING TAX TABLES ESTABLISHED BY THE EXECUTIVE
25 DIRECTOR, OR BY SUCH OTHER METHODS AS THE EXECUTIVE DIRECTOR
26 MAY PRESCRIBE IF SUCH PERCENTAGE, PERCENTAGES, TABLES, OR OTHER
27 METHODS RESULT IN THE WITHHOLDING FROM THE OTHER COMPENSATION

1 PAID TO AN EMPLOYEE DURING EACH PAY PERIOD AN AMOUNT WHICH
2 SHALL APPROXIMATE AS NEARLY AS POSSIBLE THE INCOME TAX DUE TO
3 THE STATE OF COLORADO BY SUCH EMPLOYEE ON SUCH OTHER
4 COMPENSATION.

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

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

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

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

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

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

10 (13) The department is empowered to make rules and regulations
11 for the enforcement of the provisions of this section, including rules and
12 regulations for determining the amount, up to but not exceeding the
13 amount limited in this section, to be deducted and withheld by employers
14 from wages ~~of~~ AND OTHER COMPENSATION PAID TO nonresident
15 employees, only a part of whose wages OR OTHER COMPENSATION are
16 paid for services performed within the state of Colorado.

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

27 (b) (I) To enforce the provisions of this section, the executive

1 director may file with the employer a withholding certificate on behalf of
2 the employee. Prior to the filing of such certificate, the executive director
3 shall first notify the employee that the certificate previously filed by the
4 employee is being examined and that the employee may submit
5 satisfactory evidence ~~pursuant to the internal revenue code~~ within ten
6 days of receipt of said notice as to the correct number of withholding
7 exemptions and allowances. Should the executive director, after
8 reviewing any evidence so submitted, find the certificate filed by the
9 employee to be defective, the employer shall accept the certificate filed
10 by the director in lieu of any certificate previously filed by the employee,
11 and such certificate filed by the executive director shall thereafter form
12 the basis for withholding FROM wages AND OTHER COMPENSATION as
13 required by this section. The executive director may also require from the
14 employer a copy of any withholding certificate signed by the employee.

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

20 **SECTION 13.** In Colorado Revised Statutes, 39-26-102, **amend**
21 (19)(g) as follows:

22 **39-26-102. Definitions - repeal.** As used in this article 26, unless
23 the context otherwise requires:

24 (19) (g) (I) (A) For purposes of this subsection (19), BEFORE JULY
25 1, 2025, "agricultural commodities" does not include products regulated
26 under article 10 of title 44.

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

1 2026.

2 (II) FOR PURPOSES OF THIS SUBSECTION (19), ON OR AFTER JULY 1,
3 2025, "AGRICULTURAL COMMODITIES" INCLUDES PRODUCTS REGULATED
4 UNDER ARTICLE 10 OF TITLE 44.

5 **SECTION 14.** In Colorado Revised Statutes, 39-26-104, add
6 (1)(c.5) as follows:

7 **39-26-104. Property and services taxed - definitions.** (1) There
8 is levied and there shall be collected and paid a tax in the amount stated
9 in section 39-26-106 as follows:

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

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

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

1 (1)(c.5)(III) SHALL NOT EXCEED THE TAX IMPOSED ON A TELEPHONE OR
2 TELEGRAPH SERVICE PURSUANT TO THIS SECTION.

3 **SECTION 15.** In Colorado Revised Statutes, **amend** 39-26-726
4 as follows:

5 **39-26-726. Medical marijuana - debilitating conditions and**
6 **ability to purchase.** (1) All sales of medical marijuana to a patient who
7 is determined to be indigent for purposes of waiving the fee required by
8 section 25-1.5-106 C.R.S., ~~shall be~~ ARE exempt from taxation under part
9 1 of this ~~article~~ ARTICLE 26. If the patient is determined to be indigent, the
10 state health agency shall mark ~~his or her~~ THE PATIENT'S registry
11 identification card as such and the patient shall present the card to the
12 licensed medical marijuana center to receive the tax exemption.

13 (2) ON OR AFTER JULY 1, 2025, ALL SALES OF MEDICAL MARIJUANA
14 TO AN INDIVIDUAL WHO PRESENTS A VALID ELECTRONIC BENEFITS
15 TRANSFER CARD OR OTHER FORM OF IDENTIFICATION USED TO RECEIVE
16 STATE OR FEDERAL BENEFITS AT THE TIME OF SALE TO A LICENSED
17 MEDICAL MARIJUANA CENTER ARE EXEMPT FROM TAXATION UNDER PART
18 1 OF THIS ARTICLE 26.

19 **SECTION 16.** In Colorado Revised Statutes, 39-30-104, **amend**
20 (1)(a), (2)(c)(I) introductory portion, (2)(c)(I)(B), (2)(c)(III), and
21 (2)(c)(IV); **repeal** (2)(b); and **repeal and reenact, with amendments,**
22 (2.5) as follows:

23 **39-30-104. Credit against tax - investment in certain property**
24 **- definitions.** (1) (a) (I) There ~~shall be~~ IS allowed to any person as a
25 credit against the tax imposed by article 22 of this title 39, for income tax
26 years commencing on or after January 1, 1986, an amount equal to the
27 total of three percent of the total qualified investment, as determined

1 under section 46 (c)(2) of the federal "Internal Revenue Code of 1986",
2 as amended, in such taxable year in qualified property as defined in
3 section 48 of the internal revenue code to the extent that such investment
4 is in property that is used solely and exclusively in an enterprise zone for
5 at least one year. The references in this subsection (1) to sections 46
6 (c)(2) and 48 of the internal revenue code mean sections 46 (c)(2) and 48
7 of the internal revenue code as they existed immediately prior to the
8 enactment of the federal "Revenue Reconciliation Act of 1990".

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

19 (B) A TAXPAYER MAY SEEK A WAIVER OF THE LIMITATION ON THE
20 AMOUNT OF CREDIT ESTABLISHED IN SUBSECTION (1)(a)(II)(A) OF THIS
21 SECTION BY COMPLETING A WRITTEN APPLICATION TO THE COLORADO
22 ECONOMIC DEVELOPMENT COMMISSION FOR PERMISSION TO BE ALLOWED
23 A CREDIT IN EXCESS OF THAT LIMITATION FOR THE INCOME TAX YEAR IN
24 WHICH THE TOTAL QUALIFIED INVESTMENT IS MADE. THE APPLICATION
25 MUST INCLUDE IDENTIFICATION OF THE SUBSTANTIAL POSITIVE IMPACT
26 THAT THE WAIVER OF THE LIMITATION WOULD HAVE ON INVESTMENTS AND
27 ON WELL-PAYING JOBS IN THE ENTERPRISE ZONE, DOCUMENTATION THAT

1 DEMONSTRATES THAT WITHOUT THE WAIVER OF THE LIMITATION THE
2 SUBSTANTIAL POSITIVE IMPACT ON INVESTMENTS AND ON WELL-PAYING
3 JOBS IN THE ENTERPRISE ZONE IS NOT LIKELY TO OCCUR, AND
4 INFORMATION THAT THE WAIVER OF THE LIMITATION IS A SUBSTANTIAL
5 FACTOR IN THE TAXPAYER'S DECISION TO MAKE A QUALIFIED INVESTMENT
6 IN THE START-UP, RETENTION, EXPANSION, OR RELOCATION OF THE
7 TAXPAYER'S BUSINESS, SUCH THAT WITHOUT THE WAIVER THE TAXPAYER
8 IS NOT LIKELY TO MAKE THE QUALIFIED INVESTMENT. IN DECIDING
9 WHETHER TO GRANT THE WAIVER OF THE LIMITATION, THE COMMISSION
10 MUST CONSIDER THE OVERALL ECONOMIC HEALTH OF THIS STATE AND THE
11 ECONOMIC VIABILITY OF THE ARGUMENTS MADE BY THE TAXPAYER IN
12 SUPPORT OF THE TAXPAYER'S APPLICATION. THE COLORADO ECONOMIC
13 DEVELOPMENT COMMISSION MAY REQUIRE THE TAXPAYER TO PROVIDE AN
14 INDEPENDENT ANALYSIS, AT THE TAXPAYER'S EXPENSE, THAT
15 SUBSTANTIATES THE TAXPAYER'S ARGUMENTS IN SUPPORT OF THE
16 APPLICATION. THE TAXPAYER'S APPLICATION MUST BE CONSIDERED AT A
17 REGULARLY SCHEDULED MEETING OF THE COLORADO ECONOMIC
18 DEVELOPMENT COMMISSION AT WHICH THE PUBLIC IS ALLOWED TO
19 COMMENT.

20 (C) THE COLORADO ECONOMIC DEVELOPMENT COMMISSION MAY
21 ALLOW ALL, PART, OR NONE OF A TAXPAYER'S APPLICATION TO WAIVE THE
22 LIMITATION ON THE AMOUNT OF CREDIT ESTABLISHED IN SUBSECTION
23 (1)(a)(II)(A) OF THIS SECTION. THE COLORADO ECONOMIC DEVELOPMENT
24 COMMISSION MUST ISSUE A CREDIT CERTIFICATE THAT SETS FORTH THE
25 AMOUNT OF THE CREDIT THAT THE TAXPAYER IS ALLOWED FOR THE
26 INCOME TAX YEAR IN WHICH THE TOTAL QUALIFIED INVESTMENT IS MADE.
27 THE TAXPAYER SHALL SUBMIT THE CREDIT CERTIFICATE TO THE

1 DEPARTMENT OF REVENUE WITH THE TAXPAYER'S INCOME TAX RETURN
2 FOR THE TAX YEAR FOR WHICH THE COLORADO ECONOMIC DEVELOPMENT
3 COMMISSION ISSUED THE CREDIT CERTIFICATE.

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

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

22 (2) (b) ~~In addition to the limitations set forth in paragraph (a) of~~
23 ~~this subsection (2), for income tax years commencing on or after January~~
24 ~~1, 2011, but prior to January 1, 2014, any taxpayer that is eligible to claim~~
25 ~~a credit pursuant to subsection (1) of this section in excess of five~~
26 ~~hundred thousand dollars shall defer claiming any amount of the credit~~
27 ~~allowed pursuant to this section that exceeds five hundred thousand~~

1 ~~dollars until an income tax year commencing on or after January 1, 2014.~~
2 ~~The five hundred thousand dollar limitation specified in this paragraph~~
3 ~~(b) shall apply to any credit allowed in the income tax years commencing~~
4 ~~on or after January 1, 2011, but prior to January 1, 2014, including any~~
5 ~~amount carried forward from a prior year.~~

6 (c) (I) For income tax years commencing on or after January 1,
7 2014, except as provided in ~~section~~ SECTIONS 24-46-104.3 AND 24-46-108
8 and subsection (2)(c)(II) of this section, the amount that may be claimed
9 by a taxpayer for an income tax year and that is not applied or refunded
10 under section 24-46-108 is limited to the lesser of:

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

15 (III) (A) Except as otherwise provided in sections 24-46-104.3,
16 ~~24-46-107~~, and 24-46-108 and subsection (2)(c)(III)(B) of this section,
17 any excess credit allowed pursuant to this subsection (2)(c) shall be an
18 investment tax credit carryover to each of the fourteen income tax years
19 following the unused credit year.

20 (B) Except as otherwise provided in ~~sections~~ SECTION
21 24-46-104.3, ~~and 24-46-107~~, any excess credit allowed pursuant to this
22 subsection (2)(c) for a renewable energy investment made in an income
23 tax year commencing before January 1, 2018, shall be an investment tax
24 credit carryover for twenty-two income tax years following the year the
25 credit was originally allowed.

26 (IV) The limitation contained in this ~~paragraph (c)~~ SUBSECTION
27 (2)(c) on the amount a taxpayer may claim for the income tax year in

1 which the total qualified investment is made does not limit the total
2 amount of the credit allowed under ~~subsection (1)~~ SUBSECTION (1)(a) of
3 this section, nor does it limit the ability of a taxpayer to ~~carryover~~ CARRY
4 OVER a credit to subsequent tax years as allowed in ~~subparagraph (H)~~ of
5 ~~this paragraph (c)~~ SUBSECTION (2)(c)(III) OF THIS SECTION or previously
6 allowed in subsection (2.5) of this section FOR INVESTMENTS MADE IN
7 INCOME TAX YEARS COMMENCING BEFORE JANUARY 1, 2014.

8 (2.5) (a) (I) Notwithstanding section 39-22-507.5 (7)(b), except
9 as provided in ~~sections~~ SECTION 24-46-107 and ~~24-46-108~~, and except as
10 otherwise provided in subsections (2.5)(a)(II) and (2.5)(b) of this section,
11 any excess credit allowed pursuant to this section and ~~not applied or~~
12 ~~refunded under section 24-46-108~~ FOR AN INVESTMENT MADE IN AN
13 INCOME TAX YEAR COMMENCING BEFORE JANUARY 1, 2014, shall be an
14 investment tax credit carryover to each of the twelve income tax years
15 following the unused credit year.

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

21 (b) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
22 JANUARY 1, 2011, BUT PRIOR TO JANUARY 1, 2014, ANY TAXPAYER THAT
23 IS ELIGIBLE TO CLAIM A CREDIT PURSUANT TO SUBSECTION (1) OF THIS
24 SECTION IN EXCESS OF FIVE HUNDRED THOUSAND DOLLARS SHALL DEFER
25 CLAIMING ANY AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THIS
26 SECTION THAT EXCEEDS FIVE HUNDRED THOUSAND DOLLARS UNTIL AN
27 INCOME TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2014. THE FIVE

1 HUNDRED THOUSAND DOLLAR LIMITATION SPECIFIED IN THIS SUBSECTION
2 (2.5)(b) APPLIES TO ANY CREDIT ALLOWED IN THE INCOME TAX YEARS
3 COMMENCING ON OR AFTER JANUARY 1, 2011, BUT PRIOR TO JANUARY 1,
4 2014, INCLUDING ANY AMOUNT CARRIED FORWARD FROM A PRIOR YEAR.

5 (II) EXCEPT AS PROVIDED IN SECTION 24-46-107 AND SUBSECTION
6 (2.5)(b)(III) OF THIS SECTION, A TAXPAYER THAT DEFERRED CLAIMING
7 ANY CREDIT IN EXCESS OF FIVE HUNDRED THOUSAND DOLLARS DURING AN
8 INCOME TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2011, BUT
9 PRIOR TO JANUARY 1, 2014, PURSUANT TO SUBSECTION (2.5)(b)(I) OF THIS
10 SECTION SHALL BE ALLOWED TO CLAIM THE DEFERRED CREDIT AS AN
11 INVESTMENT TAX CREDIT CARRYOVER FOR TWELVE INCOME TAX YEARS
12 FOLLOWING THE YEAR THE CREDIT WAS ORIGINALLY ALLOWED PLUS ONE
13 ADDITIONAL INCOME TAX YEAR FOR EACH INCOME TAX YEAR THAT THE
14 CREDIT WAS DEFERRED PURSUANT TO SUBSECTION (2.5)(b)(I) OF THIS
15 SECTION.

16 (III) EXCEPT AS PROVIDED IN SECTION 24-46-107, A TAXPAYER IS
17 ALLOWED TO CLAIM THE DEFERRED CREDIT DESCRIBED IN SUBSECTION
18 (2.5)(b)(II) OF THIS SECTION FOR A RENEWABLE ENERGY INVESTMENT
19 MADE IN AN INCOME TAX YEAR COMMENCING BEFORE JANUARY 1, 2014,
20 AS AN INVESTMENT TAX CREDIT CARRYOVER FOR TWENTY INCOME TAX
21 YEARS FOLLOWING THE YEAR THE CREDIT WAS ORIGINALLY ALLOWED PLUS
22 ONE ADDITIONAL INCOME TAX YEAR FOR EACH INCOME TAX YEAR THAT
23 THE CREDIT WAS DEFERRED PURSUANT TO SUBSECTION (2.5)(b)(I) OF THIS
24 SECTION.

25 (c) THIS SUBSECTION (2.5) IS REPEALED, EFFECTIVE JANUARY 1,
26 2040.

27 **SECTION 17. Safety clause.** The general assembly finds,

1 determines, and declares that this act is necessary for the immediate
2 preservation of the public peace, health, or safety or for appropriations for
3 the support and maintenance of the departments of the state and state
4 institutions.