First Extraordinary Session
Seventy-fifth General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 25B-0005.01 Jed Franklin x5484

HOUSE BILL 25B-1004

HOUSE SPONSORSHIP

Stewart R. and Camacho,

SENATE SPONSORSHIP

Marchman and Snyder,

House Committees
Appropriations

Senate Committees

A BILL FOR AN ACT

CONCERNING AUTHORIZING THE DEPARTMENT OF THE TREASURY TO SELL TAX CREDITS TO QUALIFIED TAXPAYERS, AND, IN CONNECTION THEREWITH, TRANSFERRING THE PROCEEDS TO THE GENERAL FUND AND MAKING AN APPROPRIATION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

The bill authorizes the department of the treasury (department) to issue insurance premium tax credits to insurance companies that are authorized to do business in Colorado and incur premium tax liability,

subject to procedures established by the department. The department may contract or consult with an independent third party to manage the bidding process. The department is required to issue an insurance premium tax credit certificate to each successful purchaser.

A qualified taxpayer may claim the insurance premium tax credit against its premium tax liability. The department, in consultation with the office of state planning and budgeting, prior to the sale of an insurance premium tax credit, may determine the calendar years in which the qualified taxpayer may claim the qualified taxpayer's tax credit against the qualified taxpayer's premium tax liability. The amount of the credit claimed cannot exceed the taxpayer's premium tax liability for a given year. The unused amount carries forward and may be claimed in subsequent years; except that a credit cannot be claimed for premium tax liability incurred in a taxable year that begins after December 31, 2033.

The proceeds from the issuance of insurance premium tax credits must be deposited in the general fund.

The bill also authorizes the department to issue income tax credits to C corporations that are authorized to do business in Colorado and incur income tax liability, subject to procedures established by the department. The department may contract or consult with an independent third party to manage the bidding process. The department is required to issue an income tax credit certificate to each successful purchaser.

A qualified taxpayer may claim the income tax credit against its income tax liability. The department, in consultation with the office of state planning and budgeting, prior to the sale of an income tax credit, may determine the calendar years in which the qualified taxpayer may claim the qualified taxpayer's tax credit against the qualified taxpayer's income tax liability. The amount of the credit claimed cannot exceed the taxpayer's income tax liability for a given year. The unused amount carries forward and may be claimed in subsequent years; except that a credit cannot be claimed for income tax liability incurred in a taxable year that begins after December 31, 2033.

The proceeds from the issuance of income tax credits must be deposited in the general fund.

The department is authorized to issue up to a total of $125 million in insurance premium tax credit certificates and income tax credit certificates in fiscal year 2025-26.

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

SECTION 1. In Colorado Revised Statutes, **add** part 4 to article 36 of title 24 as follows:

PART 4

SALE OF INSURANCE PREMIUM TAX CREDITS

24-36-401. Legislative declaration - tax preference performance statement. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) THE INSURANCE PREMIUM TAX CREDITS AUTHORIZED BY THIS PART 4 ARE NOT REFUNDABLE AND DO NOT IMPOSE AN OBLIGATION OF PAYMENT IN ANY FUTURE YEAR ON THE STATE;

(b) THE USE OF PROCEEDS FROM THE SALE OF INSURANCE PREMIUM TAX CREDITS DOES NOT REQUIRE THE STATE TO BORROW MONEY, EXTEND OR PLEDGE THE STATE'S CREDIT, OR OBLIGATE THE STATE TO MAKE FUTURE PAYMENTS FROM STATE REVENUE;

(c) THE SALE AND USE OF THE TAX CREDITS SHALL NOT BE DEEMED OR CONSTRUED AS CREATING INDEBTEDNESS OR OTHER FINANCIAL OBLIGATION WHATSOEVER WITHIN THE MEANING OF ANY PROVISION OF THE STATE CONSTITUTION OR THE LAWS OF THE STATE CONCERNING OR LIMITING THE CREATION OF INDEBTEDNESS OR OTHER FINANCIAL OBLIGATION BY THE STATE;

(d) THE TAX CREDITS ALLOW AN INSURANCE COMPANY WITH AN INSURANCE PREMIUM TAX LIABILITY TO PREPAY ITS TAX LIABILITY FOR FUTURE YEARS, WHICH DOES NOT CONSTITUTE A TAX POLICY CHANGE UNDER SECTION 20 (4)(a) OF ARTICLE X OF THE STATE CONSTITUTION; AND

(e) ANY PROCEEDS FROM THE SALE OF THE TAX CREDITS WILL BE OFFSET BY DECREASES IN FUTURE REVENUE RESULTING FROM THE BUYER'S USE OF THE TAX CREDITS AND THEREFORE WILL NOT CAUSE A NET TAX REVENUE GAIN UNDER SECTION 20 (4)(a) OF ARTICLE X OF THE STATE CONSTITUTION.

(2) (a) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH

REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT THE GENERAL PURPOSES OF THE TAX CREDITS PROVIDED FOR IN THIS PART 4 ARE TO INDUCE CERTAIN DESIGNATED BEHAVIOR BY TAXPAYERS AND PROVIDE A REDUCTION IN INSURANCE PREMIUM TAX LIABILITY FOR CERTAIN BUSINESSES. SPECIFICALLY, THIS TAX EXPENDITURE IS INTENDED TO INDUCE INSURANCE COMPANIES TO PURCHASE TAX CREDITS THAT WILL REDUCE THEIR FUTURE INSURANCE PREMIUM TAX LIABILITY IN ORDER TO GENERATE MONEY FOR THE GENERAL FUND.

(b) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL MEASURE THE EFFECTIVENESS OF THE TAX CREDITS IN ACHIEVING THE PURPOSES SPECIFIED IN SUBSECTION (2)(a) OF THIS SECTION BASED ON THE NUMBER AND VALUE OF THE CREDITS CLAIMED AND THE TOTAL AMOUNT OF GENERAL FUND MONEY GENERATED. THE DIVISION OF INSURANCE SHALL PROVIDE THE STATE AUDITOR WITH INFORMATION REGARDING THE TOTAL AMOUNT OF CREDITS CLAIMED AND THE GENERAL FUND MONEY GENERATED.

24-36-402. Definitions. AS USED IN THIS PART 4, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "DEPARTMENT" MEANS THE DEPARTMENT OF THE TREASURY.

(2) "PREMIUM TAX LIABILITY" MEANS THE LIABILITY IMPOSED BY SECTION 10-3-209 OR 10-6-128, OR, IN THE CASE OF A REPEAL OR REDUCTION BY THE STATE OF THE LIABILITY IMPOSED BY SECTION 10-3-209 OR 10-6-128, ANY OTHER TAX LIABILITY IMPOSED UPON AN INSURANCE COMPANY BY THE STATE.

(3) "QUALIFIED TAXPAYER" MEANS AN INSURANCE COMPANY AUTHORIZED TO DO BUSINESS IN COLORADO THAT HAS PREMIUM TAX LIABILITY OWING TO THE STATE AND THAT PURCHASES A TAX CREDIT UNDER THIS PART 4. "QUALIFIED TAXPAYER" ALSO INCLUDES AN INSURANCE COMPANY THAT RECEIVES OR ASSUMES A TAX CREDIT TRANSFERRED IN ACCORDANCE WITH SECTION 24-36-403 (7)(e) OR 24-36-404 (5).

(4) "TAX CREDIT" MEANS THE TAX CREDIT CREATED IN SECTION 24-36-403.

(5) "TAX CREDIT SALE PROCEEDS" OR "SALE PROCEEDS" MEANS THE MONEY OR OTHER LIQUID ASSET ACCEPTABLE TO THE STATE TREASURER THAT A QUALIFIED TAXPAYER PAYS TO THE DEPARTMENT THAT IS DEPOSITED IN THE GENERAL FUND.

24-36-403. Insurance premium tax credits - purchase - authorization to issue - terms - report. (1) A QUALIFIED TAXPAYER MAY PURCHASE INSURANCE PREMIUM TAX CREDITS FROM THE DEPARTMENT IN ACCORDANCE WITH THIS SECTION AND MAY APPLY THE TAX CREDITS AGAINST ITS PREMIUM TAX LIABILITY IN ACCORDANCE WITH SECTION 24-36-404.

(2) (a) THE DEPARTMENT IS AUTHORIZED TO ISSUE TAX CREDIT CERTIFICATES TO QUALIFIED TAXPAYERS PURSUANT TO THIS PART 4 AND PART 5 OF THIS ARTICLE 36 EQUAL TO THE LESSER OF A TOTAL FACE VALUE OF UP TO ONE HUNDRED TWENTY-FIVE MILLION DOLLARS AND ANY REASONABLE AND NECESSARY ADMINISTRATIVE, MONITORING, AND CLOSING COSTS USING PROCEEDS FROM THE SALE OF TAX CREDITS OR TOTAL SALES PROCEEDS OF UP TO ONE HUNDRED MILLION DOLLARS.

(b) THE DEPARTMENT MAY CONTRACT WITH AN INDEPENDENT

THIRD PARTY TO CONDUCT OR CONSULT ON A BIDDING PROCESS AMONG QUALIFIED TAXPAYERS TO PURCHASE THE TAX CREDITS.

(c) THE DEPARTMENT SHALL CONSULT WITH INSURANCE COMPANIES IN ADVANCE OF ISSUING ANY TAX CREDITS IN ACCORDANCE WITH THIS SECTION.

(3) AN INSURANCE COMPANY AUTHORIZED TO DO BUSINESS IN COLORADO SEEKING TO PURCHASE TAX CREDITS MUST APPLY TO THE DEPARTMENT IN THE MANNER PRESCRIBED BY THE DEPARTMENT.

(4) USING PROCEDURES ADOPTED BY THE DEPARTMENT OR, IF APPLICABLE, BY AN INDEPENDENT THIRD PARTY, EACH INSURANCE COMPANY THAT SUBMITS AN APPLICATION SHALL MAKE A TIMELY AND IRREVOCABLE OFFER, CONTINGENT ONLY ON THE DEPARTMENT'S ISSUANCE TO THE INSURANCE COMPANY OF THE TAX CREDIT CERTIFICATES, TO MAKE A SPECIFIED PURCHASE PAYMENT AMOUNT TO THE DEPARTMENT ON DATES SPECIFIED BY THE DEPARTMENT, WHICH MUST NOT BURDEN ANY SINGLE TAX YEAR. THE OFFER MUST INCLUDE:

(a) THE REQUESTED AMOUNT OF TAX CREDITS, WHICH MUST NOT BE LESS THAN ANY MINIMUM AMOUNT ESTABLISHED IN PROCEDURES BY THE DEPARTMENT OR, IF APPLICABLE, THE INDEPENDENT THIRD PARTY;

(b) THE QUALIFIED TAXPAYER'S PROPOSED TAX CREDIT PURCHASE AMOUNT FOR EACH TAX CREDIT DOLLAR REQUESTED. THE MINIMUM PROPOSED TAX CREDIT PURCHASE AMOUNT MUST BE THE GREATER OF EITHER:

(I) THE PERCENTAGE OF THE REQUESTED DOLLAR AMOUNT OF TAX CREDITS THAT THE DEPARTMENT AND, IF APPLICABLE, THE INDEPENDENT THIRD PARTY DETERMINES TO BE CONSISTENT WITH MARKET CONDITIONS AS OF THE OFFER DATE; OR

(II) SEVENTY-FIVE PERCENT OF THE REQUESTED DOLLAR AMOUNT OF TAX CREDITS; AND

(c) ANY OTHER INFORMATION THE DEPARTMENT OR, IF APPLICABLE, THE INDEPENDENT THIRD PARTY REQUIRES.

(5) THE DEPARTMENT SHALL PROVIDE WRITTEN NOTICE TO EACH INSURANCE COMPANY THAT SUBMITS AN APPLICATION INDICATING WHETHER THE INSURANCE COMPANY HAS BEEN APPROVED AS A PURCHASER OF TAX CREDITS AND, IF SO, THE AMOUNT OF TAX CREDITS ALLOCATED AND THE DATE BY WHICH PAYMENT OF THE TAX CREDIT SALE PROCEEDS MUST BE MADE.

(6) ON RECEIPT OF PAYMENT OF THE SALE PROCEEDS, THE DEPARTMENT SHALL ISSUE TO EACH QUALIFIED TAXPAYER A TAX CREDIT CERTIFICATE. THE TAX CREDIT CERTIFICATE MUST STATE:

(a) THE TOTAL AMOUNT OF PREMIUM TAX CREDITS THAT THE QUALIFIED TAXPAYER MAY CLAIM;

(b) THE AMOUNT THAT THE QUALIFIED TAXPAYER HAS PAID OR AGREED TO PAY IN RETURN FOR THE ISSUANCE OF THE TAX CREDIT CERTIFICATES AND THE DATE OF THE PAYMENT;

(c) THE DATES ON WHICH THE TAX CREDITS WILL BE AVAILABLE FOR USE BY THE QUALIFIED TAXPAYER;

(d) ANY PENALTIES OR OTHER REMEDIES FOR NONCOMPLIANCE;

(e) THE PROCEDURES TO BE USED FOR TRANSFERRING OR ASSUMING THE TAX CREDITS IN ACCORDANCE WITH SUBSECTION (7)(e) OF THIS SECTION OR SECTION 24-36-404 (5);

(f) THE SERIAL NUMBER OF THE TAX CREDIT CERTIFICATE; AND

(g) ANY OTHER REQUIREMENTS DEEMED NECESSARY BY THE DEPARTMENT AS A CONDITION OF ISSUING THE TAX CREDIT CERTIFICATE.

(7) (a) THE DEPARTMENT SHALL NOT ISSUE A TAX CREDIT CERTIFICATE TO ANY QUALIFIED TAXPAYER THAT FAILS TO PROVIDE THE TAX CREDIT SALE PROCEEDS WITHIN THE TIME THE DEPARTMENT SPECIFIES.

(b) A QUALIFIED TAXPAYER THAT FAILS TO PROVIDE THE TAX CREDIT SALE PROCEEDS WITHIN THE TIME THE DEPARTMENT SPECIFIES IS SUBJECT TO A PENALTY EQUAL TO TEN PERCENT OF THE AMOUNT OF THE PURCHASE PRICE THAT REMAINS UNPAID. THE PENALTY MUST BE PAID TO THE DEPARTMENT WITHIN THIRTY DAYS AFTER DEMAND.

(c) THE DEPARTMENT MAY OFFER TO REALLOCATE THE DEFAULTED TAX CREDITS AMONG OTHER QUALIFIED TAXPAYERS, SO THAT THE RESULT AFTER REALLOCATION IS THE SAME AS IF THE INITIAL ALLOCATION HAD BEEN PERFORMED WITHOUT CONSIDERING THE TAX CREDIT ALLOCATION TO THE DEFAULTING QUALIFIED TAXPAYER.

(d) IF THE REALLOCATION OF TAX CREDITS UNDER SUBSECTION (7)(c) OF THIS SECTION RESULTS IN THE PAYMENT BY ANOTHER QUALIFIED TAXPAYER OF THE AMOUNT OF TAX CREDIT SALE PROCEEDS NOT PAID BY THE DEFAULTING QUALIFIED TAXPAYER, THE DEPARTMENT MAY WAIVE THE PENALTY IMPOSED UNDER SUBSECTION (7)(b) OF THIS SECTION.

(e) A QUALIFIED TAXPAYER THAT FAILS TO PAY THE TAX CREDIT SALE PROCEEDS WITHIN THE TIME SPECIFIED MAY AVOID THE IMPOSITION OF THE PENALTY BY TRANSFERRING THE ALLOCATION OF TAX CREDITS TO A NEW OR EXISTING QUALIFIED TAXPAYER WITHIN THIRTY DAYS AFTER THE DUE DATE OF THE DEFAULTED INSTALLMENT. ANY TRANSFEREE OF AN ALLOCATION OF TAX CREDITS OF A DEFAULTING QUALIFIED TAXPAYER UNDER THIS SUBSECTION (7) SHALL AGREE TO PAY THE TAX CREDIT SALE PROCEEDS WITHIN FIVE DAYS AFTER THE DATE OF THE TRANSFER.

(8) THE TAX CREDIT SALE PROCEEDS PROVIDED BY A QUALIFYING TAXPAYER IN RETURN FOR A TAX CREDIT CERTIFICATE MUST BE DEPOSITED IN THE GENERAL FUND.

(9) (a) THE DEPARTMENT SHALL PROVIDE, WITHIN THIRTY DAYS AFTER THE CLOSE OF THE FISCAL YEAR, A DATA FILE TO THE DIVISION OF INSURANCE IN THE DEPARTMENT OF REGULATORY AGENCIES AND THE DEPARTMENT OF REVENUE FOR EACH FISCAL YEAR IN WHICH IT ISSUES TAX CREDIT CERTIFICATES PURSUANT TO THIS PART 4. THE DATA FILE MUST INCLUDE:

(I) THE NAME AND IDENTIFYING NUMBER ISSUED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, OR ANY SUCCESSOR ORGANIZATION, OF EACH QUALIFIED TAXPAYER TO WHICH THE DEPARTMENT ISSUED A TAX CREDIT CERTIFICATE;

(II) THE TOTAL AMOUNT OF THE TAX CREDIT ALLOCATED TO THE QUALIFIED TAXPAYER; AND

(III) THE SERIAL NUMBER OF THE TAX CREDIT CERTIFICATE ISSUED TO THE QUALIFIED TAXPAYER.

(b) THE DEPARTMENT SHALL MAINTAIN RECORDS OF EACH TAX CREDIT CERTIFICATE ISSUED, TRANSFERRED, OR ASSUMED THAT ARE SUFFICIENT TO ALLOW THE DEPARTMENT OF REVENUE OR THE DIVISION OF INSURANCE IN THE DEPARTMENT OF REGULATORY AGENCIES TO VERIFY THE ISSUANCE AND OWNERSHIP OF THE CREDIT. THE DEPARTMENT SHALL PROVIDE THE RECORDS TO THE OFFICE OF THE STATE AUDITOR UPON REQUEST SO THAT THE STATE AUDITOR CAN EVALUATE THE EFFECTIVENESS OF THE TAX CREDITS IN ACCORDANCE WITH SECTIONS 24-36-401 (2)(b) AND 39-21-305.

(10) THE DEPARTMENT MAY PAY AN INDEPENDENT THIRD PARTY

AND ANY CONSULTANTS REASONABLE AND NECESSARY ADMINISTRATIVE, MONITORING, AND CLOSING COSTS USING THE PROCEEDS FROM THE SALE OF TAX CREDITS.

24-36-404. Use of insurance premium tax credits - carry over. (1) FOR A TAX CREDIT CERTIFICATE ISSUED IN FISCAL YEAR 2025-26, THE DEPARTMENT, IN CONSULTATION WITH THE OFFICE OF STATE PLANNING AND BUDGETING, PRIOR TO THE SALE, MAY DETERMINE THE CALENDAR YEARS IN WHICH THE QUALIFIED TAXPAYER MAY CLAIM THE QUALIFIED TAXPAYER'S TAX CREDIT AGAINST THE QUALIFIED TAXPAYER'S PREMIUM TAX LIABILITY.

(2) THE TOTAL CREDIT TO BE APPLIED BY A QUALIFIED TAXPAYER IN ANY ONE YEAR MUST NOT EXCEED THE PREMIUM TAX LIABILITY OF THE QUALIFIED TAXPAYER FOR THE TAXABLE YEAR. IF THE QUALIFIED TAXPAYER CANNOT USE THE ENTIRE AMOUNT OF THE TAX CREDIT FOR THE TAXABLE YEAR IN WHICH THE TAXPAYER IS ELIGIBLE FOR THE CREDIT, THE EXCESS MAY BE CARRIED OVER TO SUCCEEDING TAXABLE YEARS AND USED AS A CREDIT AGAINST THE PREMIUM TAX LIABILITY OF THE TAXPAYER FOR THOSE TAXABLE YEARS; EXCEPT THAT THE CREDIT MAY NOT BE CARRIED OVER TO ANY TAXABLE YEAR THAT BEGINS AFTER DECEMBER 31, 2033. ANY AMOUNT OF THE CREDIT THAT IS NOT TIMELY CLAIMED EXPIRES AND IS NOT REFUNDABLE.

(3) A QUALIFIED TAXPAYER CLAIMING A CREDIT UNDER THIS PART 4 SHALL SUBMIT THE TAX CREDIT CERTIFICATE WITH ITS TAX RETURN.

(4) A QUALIFIED TAXPAYER CLAIMING A TAX CREDIT UNDER THIS PART 4 SHALL NOT BE REQUIRED TO PAY ANY ADDITIONAL OR RETALIATORY TAX AS A RESULT OF CLAIMING THE CREDIT.

(5) IF A QUALIFIED TAXPAYER HOLDING AN UNCLAIMED TAX

CREDIT IS PART OF A MERGER, ACQUISITION, OR LINE OF BUSINESS DIVESTITURE TRANSACTION, THE TAX CREDIT MAY BE TRANSFERRED TO AND ASSUMED BY THE RESULTING ENTITY IF THE RESULTING ENTITY IS AN INSURANCE COMPANY AUTHORIZED TO DO BUSINESS IN COLORADO THAT HAS PREMIUM TAX LIABILITY. THE QUALIFIED TAXPAYER THAT ORIGINALLY PURCHASED THE CREDIT AND THE RESULTING ENTITY SHALL NOTIFY THE DEPARTMENT IN WRITING OF THE TRANSFER OR ASSUMPTION OF THE CREDIT IN ACCORDANCE WITH PROCEDURES ADOPTED BY THE DEPARTMENT. THE TRANSFER OR ASSUMPTION OF THE TAX CREDIT DOES NOT AFFECT THE TIME SCHEDULE FOR CLAIMING THE TAX CREDIT AS PROVIDED IN THIS SECTION.

(6) THE DEPARTMENT SHALL PROVIDE A REPORT TO THE DIVISION OF INSURANCE IN THE DEPARTMENT OF REGULATORY AGENCIES FOR EACH FISCAL YEAR IN WHICH IT ISSUES TAX CREDIT CERTIFICATES PURSUANT TO THIS PART 4 WITHIN THIRTY DAYS AFTER THE CLOSE OF THE FISCAL YEAR. THE REPORT MUST INCLUDE:

(a) THE NAME AND IDENTIFYING NUMBER ISSUED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, OR ANY SUCCESSOR ORGANIZATION, OF EACH QUALIFIED TAXPAYER TO WHICH THE DEPARTMENT ISSUED A TAX CREDIT CERTIFICATE;

(b) THE TOTAL AMOUNT OF THE TAX CREDIT ALLOCATED TO THE QUALIFIED TAXPAYER; AND

(c) THE SERIAL NUMBER OF THE TAX CREDIT CERTIFICATE ISSUED, TRANSFERRED, OR ASSUMED THAT IS SUFFICIENT TO ALLOW THE DIVISION OF INSURANCE IN THE DEPARTMENT OF REGULATORY AGENCIES TO VERIFY THE ISSUANCE AND OWNERSHIP OF THE TAX CREDIT.

24-36-405. Repeal of part. THIS PART 4 IS REPEALED, EFFECTIVE

DECEMBER 31, 2040.

SECTION 2. In Colorado Revised Statutes, **add** part 5 to article 36 of title 24 as follows:

PART 5

SALE OF CORPORATE TAX CREDITS

24-36-501. Legislative declaration - tax preference performance statement. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) THE CORPORATE TAX CREDITS AUTHORIZED BY THIS PART 5 ARE NOT REFUNDABLE AND DO NOT IMPOSE AN OBLIGATION OF PAYMENT IN ANY FUTURE YEAR ON THE STATE;

(b) THE USE OF PROCEEDS FROM THE SALE OF CORPORATE TAX CREDITS DOES NOT REQUIRE THE STATE TO BORROW MONEY, EXTEND OR PLEDGE THE STATE'S CREDIT, OR OBLIGATE THE STATE TO MAKE FUTURE PAYMENTS FROM STATE REVENUE;

(c) THE SALE AND USE OF THE CORPORATE TAX CREDITS SHALL NOT BE DEEMED OR CONSTRUED AS CREATING INDEBTEDNESS OR OTHER FINANCIAL OBLIGATION WHATSOEVER WITHIN THE MEANING OF ANY PROVISION OF THE STATE CONSTITUTION OR THE LAWS OF THE STATE CONCERNING OR LIMITING THE CREATION OF INDEBTEDNESS OR OTHER FINANCIAL OBLIGATION BY THE STATE;

(d) THE TAX CREDITS ALLOW A CORPORATION WITH AN INCOME TAX LIABILITY TO PREPAY ITS TAX LIABILITY FOR FUTURE YEARS, WHICH DOES NOT CONSTITUTE A TAX POLICY CHANGE UNDER SECTION 20 (4)(a) OF ARTICLE X OF THE STATE CONSTITUTION; AND

(e) ANY PROCEEDS FROM THE SALE OF THE TAX CREDITS WILL BE OFFSET BY DECREASES IN FUTURE REVENUE RESULTING FROM THE BUYER'S

USE OF THE TAX CREDITS AND THEREFORE WILL NOT CAUSE A NET TAX REVENUE GAIN UNDER SECTION 20 (4)(a) OF ARTICLE X OF THE STATE CONSTITUTION.

(2) (a) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT THE GENERAL PURPOSES OF THE TAX CREDITS PROVIDED FOR IN THIS PART 5 ARE TO INDUCE CERTAIN DESIGNATED BEHAVIOR BY TAXPAYERS AND PROVIDE A REDUCTION IN INCOME TAX LIABILITY FOR CERTAIN BUSINESSES. SPECIFICALLY, THIS TAX EXPENDITURE IS INTENDED TO INDUCE C CORPORATIONS TO PURCHASE TAX CREDITS THAT WILL REDUCE THEIR FUTURE INCOME TAX LIABILITY IN ORDER TO GENERATE MONEY FOR THE GENERAL FUND.

(b) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL MEASURE THE EFFECTIVENESS OF THE TAX CREDITS IN ACHIEVING THE PURPOSES SPECIFIED IN SUBSECTION (2)(a) OF THIS SECTION BASED ON THE NUMBER AND VALUE OF THE CREDITS CLAIMED AND THE TOTAL AMOUNT OF GENERAL FUND MONEY GENERATED. THE DEPARTMENT OF REVENUE SHALL PROVIDE THE STATE AUDITOR WITH INFORMATION REGARDING THE TOTAL AMOUNT OF CREDITS CLAIMED AND THE GENERAL FUND MONEY GENERATED.

24-36-502. Definitions. AS USED IN THIS PART 5, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "C CORPORATION" HAS THE SAME MEANING AS IN SECTION 39-22-104 (2.5).

(2) "DEPARTMENT" MEANS THE DEPARTMENT OF THE TREASURY.

(3) "INCOME TAX LIABILITY" MEANS THE LIABILITY IMPOSED BY SECTION 39-22-301.

(4) "QUALIFIED TAXPAYER" MEANS A C CORPORATION AUTHORIZED TO DO BUSINESS IN COLORADO THAT HAS OR WILL HAVE AN INCOME TAX LIABILITY OWING TO THE STATE. "QUALIFIED TAXPAYER" ALSO INCLUDES A C CORPORATION THAT RECEIVES OR ASSUMES A TAX CREDIT TRANSFERRED IN ACCORDANCE WITH SECTION 26-36-503 (7)(e).

(5) "TAX CREDIT" MEANS THE TAX CREDIT CREATED IN SECTION 24-36-503.

(6) "TAX CREDIT SALE PROCEEDS" OR "SALE PROCEEDS" MEANS THE MONEY OR OTHER LIQUID ASSET ACCEPTABLE TO THE STATE TREASURER THAT A QUALIFIED TAXPAYER PAYS TO THE DEPARTMENT THAT IS DEPOSITED IN THE GENERAL FUND.

24-36-503. Corporate tax credits - purchase - authorization to issue - terms - report. (1) A QUALIFIED TAXPAYER MAY PURCHASE INCOME TAX CREDITS FROM THE DEPARTMENT IN ACCORDANCE WITH THIS SECTION AND MAY APPLY THE TAX CREDITS AGAINST ITS INCOME TAX LIABILITY IN ACCORDANCE WITH SECTION 24-36-504.

(2) (a) THE DEPARTMENT IS AUTHORIZED TO ISSUE TAX CREDIT CERTIFICATES TO QUALIFIED TAXPAYERS PURSUANT TO THIS PART 5 AND PART 4 OF THIS ARTICLE 36 EQUAL TO THE LESSER OF A TOTAL FACE VALUE OF UP TO ONE HUNDRED TWENTY-FIVE MILLION DOLLARS AND ANY REASONABLE AND NECESSARY ADMINISTRATIVE, MONITORING, AND CLOSING COSTS USING PROCEEDS FROM THE SALE OF TAX CREDITS OR TOTAL SALES PROCEEDS OF UP TO ONE HUNDRED MILLION DOLLARS.

(b) THE DEPARTMENT MAY CONTRACT WITH AN INDEPENDENT THIRD PARTY TO CONDUCT OR CONSULT ON A BIDDING PROCESS AMONG

QUALIFIED TAXPAYERS TO PURCHASE THE TAX CREDITS.

(c) THE DEPARTMENT SHALL CONSULT WITH C CORPORATIONS IN ADVANCE OF ISSUING ANY TAX CREDITS IN ACCORDANCE WITH THIS SECTION.

(3) A C CORPORATION AUTHORIZED TO DO BUSINESS IN COLORADO SEEKING TO PURCHASE TAX CREDITS MUST APPLY TO THE DEPARTMENT IN THE MANNER PRESCRIBED BY THE DEPARTMENT.

(4) USING PROCEDURES ADOPTED BY THE DEPARTMENT OR, IF APPLICABLE, BY AN INDEPENDENT THIRD PARTY, EACH C CORPORATION THAT SUBMITS AN APPLICATION SHALL MAKE A TIMELY AND IRREVOCABLE OFFER, CONTINGENT ONLY ON THE DEPARTMENT'S ISSUANCE TO THE C CORPORATION OF THE TAX CREDIT CERTIFICATES, TO MAKE A SPECIFIED PURCHASE PAYMENT AMOUNT TO THE DEPARTMENT ON DATES SPECIFIED BY THE DEPARTMENT, WHICH MUST NOT BURDEN ANY SINGLE TAX YEAR. THE OFFER MUST INCLUDE:

(a) THE REQUESTED AMOUNT OF TAX CREDITS, WHICH MUST NOT BE LESS THAN ANY MINIMUM AMOUNT ESTABLISHED IN PROCEDURES BY THE DEPARTMENT OR, IF APPLICABLE, THE INDEPENDENT THIRD PARTY;

(b) THE QUALIFIED TAXPAYER'S PROPOSED TAX CREDIT PURCHASE AMOUNT FOR EACH TAX CREDIT DOLLAR REQUESTED. THE MINIMUM PROPOSED TAX CREDIT PURCHASE AMOUNT MUST BE THE GREATER OF EITHER:

(I) THE PERCENTAGE OF THE REQUESTED DOLLAR AMOUNT OF TAX CREDITS THAT THE DEPARTMENT AND, IF APPLICABLE, THE INDEPENDENT THIRD PARTY DETERMINES TO BE CONSISTENT WITH MARKET CONDITIONS AS OF THE OFFER DATE; OR

(II) SEVENTY-FIVE PERCENT OF THE REQUESTED DOLLAR AMOUNT

OF TAX CREDITS; AND

(c) ANY OTHER INFORMATION THE DEPARTMENT OR, IF APPLICABLE, THE INDEPENDENT THIRD PARTY REQUIRES.

(5) THE DEPARTMENT SHALL PROVIDE WRITTEN NOTICE TO EACH C CORPORATION THAT SUBMITS AN APPLICATION INDICATING WHETHER THE C CORPORATION HAS BEEN APPROVED AS A PURCHASER OF TAX CREDITS AND, IF SO, THE AMOUNT OF TAX CREDITS ALLOCATED AND THE DATE BY WHICH PAYMENT OF THE TAX CREDIT SALE PROCEEDS MUST BE MADE.

(6) ON RECEIPT OF PAYMENT OF THE SALE PROCEEDS, THE DEPARTMENT SHALL ISSUE TO EACH QUALIFIED TAXPAYER A TAX CREDIT CERTIFICATE. THE TAX CREDIT CERTIFICATE MUST STATE:

(a) THE TOTAL AMOUNT OF INCOME TAX CREDITS THAT THE QUALIFIED TAXPAYER MAY CLAIM;

(b) THE AMOUNT THAT THE QUALIFIED TAXPAYER HAS PAID FOR THE ISSUANCE OF THE TAX CREDIT CERTIFICATES AND THE DATE OF THE PAYMENT;

(c) THE DATES ON WHICH THE TAX CREDITS WILL BE AVAILABLE FOR USE BY THE QUALIFIED TAXPAYER;

(d) ANY PENALTIES OR OTHER REMEDIES FOR NONCOMPLIANCE;

(e) THE PROCEDURES TO BE USED FOR TRANSFERRING OR ASSUMING THE TAX CREDITS IN ACCORDANCE WITH SUBSECTION (7)(e) OF THIS SECTION;

(f) THE SERIAL NUMBER OF THE TAX CREDIT CERTIFICATE; AND

(g) ANY OTHER REQUIREMENTS DEEMED NECESSARY BY THE DEPARTMENT AS A CONDITION OF ISSUING THE TAX CREDIT CERTIFICATE.

(7) (a) THE DEPARTMENT SHALL NOT ISSUE A TAX CREDIT

CERTIFICATE TO ANY QUALIFIED TAXPAYER THAT FAILS TO PROVIDE THE TAX CREDIT SALE PROCEEDS WITHIN THE TIME THE DEPARTMENT SPECIFIES.

(b) A QUALIFIED TAXPAYER THAT FAILS TO PROVIDE THE TAX CREDIT SALE PROCEEDS WITHIN THE TIME THE DEPARTMENT SPECIFIES IS SUBJECT TO A PENALTY EQUAL TO TEN PERCENT OF THE AMOUNT OF THE PURCHASE PRICE THAT REMAINS UNPAID. THE PENALTY MUST BE PAID TO THE DEPARTMENT WITHIN THIRTY DAYS AFTER DEMAND.

(c) THE DEPARTMENT MAY OFFER TO REALLOCATE THE DEFAULTED TAX CREDITS AMONG OTHER QUALIFIED TAXPAYERS SO THAT THE RESULT AFTER REALLOCATION IS THE SAME AS IF THE INITIAL ALLOCATION HAD BEEN PERFORMED WITHOUT CONSIDERING THE TAX CREDIT ALLOCATION TO THE DEFAULTING QUALIFIED TAXPAYER.

(d) IF THE REALLOCATION OF TAX CREDITS UNDER SUBSECTION (7)(c) OF THIS SECTION RESULTS IN THE PAYMENT BY ANOTHER QUALIFIED TAXPAYER OF THE AMOUNT OF TAX CREDIT SALE PROCEEDS NOT PAID BY THE DEFAULTING QUALIFIED TAXPAYER, THE DEPARTMENT MAY WAIVE THE PENALTY IMPOSED UNDER SUBSECTION (7)(b) OF THIS SECTION.

(e) A QUALIFIED TAXPAYER THAT FAILS TO PAY THE TAX CREDIT SALE PROCEEDS WITHIN THE TIME SPECIFIED MAY AVOID THE IMPOSITION OF THE PENALTY BY TRANSFERRING THE ALLOCATION OF TAX CREDITS TO A NEW OR EXISTING QUALIFIED TAXPAYER WITHIN THIRTY DAYS AFTER THE DUE DATE OF THE DEFAULTED INSTALLMENT. ANY TRANSFEREE OF AN ALLOCATION OF TAX CREDITS OF A DEFAULTING QUALIFIED TAXPAYER UNDER THIS SUBSECTION (7) SHALL AGREE TO PAY THE TAX CREDIT SALE PROCEEDS WITHIN FIVE DAYS AFTER THE DATE OF THE TRANSFER.

(8) THE TAX CREDIT SALE PROCEEDS PROVIDED BY A QUALIFYING

TAXPAYER IN RETURN FOR A TAX CREDIT CERTIFICATE MUST BE DEPOSITED IN THE GENERAL FUND.

(9) (a) THE DEPARTMENT SHALL PROVIDE, WITHIN THIRTY DAYS AFTER THE CLOSE OF THE FISCAL YEAR, A DATA FILE TO THE DEPARTMENT OF REVENUE FOR EACH FISCAL YEAR IN WHICH IT ISSUES TAX CREDIT CERTIFICATES PURSUANT TO THIS PART 5. THE DATA FILE MUST INCLUDE:

(I) THE NAME AND FEDERAL EMPLOYER IDENTIFICATION NUMBER OF EACH QUALIFIED TAXPAYER TO WHICH THE DEPARTMENT ISSUED A TAX CREDIT CERTIFICATE;

(II) THE TOTAL AMOUNT OF THE TAX CREDIT ALLOCATED TO THE QUALIFIED TAXPAYER; AND

(III) THE SERIAL NUMBER OF THE TAX CREDIT CERTIFICATE ISSUED TO THE QUALIFIED TAXPAYER.

(b) THE DEPARTMENT SHALL MAINTAIN RECORDS OF EACH TAX CREDIT CERTIFICATE ISSUED, TRANSFERRED, OR ASSUMED THAT ARE SUFFICIENT TO ALLOW THE DEPARTMENT OF REVENUE TO VERIFY THE ISSUANCE AND OWNERSHIP OF THE CREDIT. THE DEPARTMENT SHALL PROVIDE THE RECORDS TO THE OFFICE OF THE STATE AUDITOR UPON REQUEST SO THAT THE STATE AUDITOR CAN EVALUATE THE EFFECTIVENESS OF THE TAX CREDITS IN ACCORDANCE WITH SECTIONS 24-36-501 (2)(b) AND 39-21-305.

(10) THE DEPARTMENT MAY PAY AN INDEPENDENT THIRD PARTY AND ANY CONSULTANTS REASONABLE AND NECESSARY ADMINISTRATIVE, MONITORING, AND CLOSING COSTS USING THE PROCEEDS FROM THE SALE OF TAX CREDITS.

24-36-504. Use of corporate income tax credits - carry over. (1) FOR A TAX CREDIT CERTIFICATE ISSUED IN FISCAL YEAR 2025-26, THE

DEPARTMENT, IN CONSULTATION WITH THE OFFICE OF STATE PLANNING AND BUDGETING, PRIOR TO THE SALE, MAY DETERMINE THE TAX YEARS IN WHICH THE QUALIFIED TAXPAYER MAY CLAIM THE QUALIFIED TAXPAYER'S TAX CREDIT AGAINST THE QUALIFIED TAXPAYER'S INCOME TAX LIABILITY.

(2) FOR THE TAX YEAR SPECIFIED IN THE TAX CREDIT CERTIFICATE ISSUED PURSUANT TO SECTION 24-34-503 (6), THE QUALIFIED TAXPAYER MAY CLAIM THE AMOUNT OF THE TAX CREDIT AGAINST THE QUALIFIED TAXPAYER'S INCOME TAX LIABILITY. IF THE AMOUNT OF THE TAX CREDIT EXCEEDS THE QUALIFIED TAXPAYER'S ACTUAL TAX LIABILITY FOR THAT TAX YEAR, THE EXCESS IS NOT REFUNDED TO THE QUALIFIED TAXPAYER. THE QUALIFIED TAXPAYER MAY CARRY FORWARD AND APPLY THE UNUSED TAX CREDIT AGAINST THE INCOME TAX LIABILITY FOR ANY SUCCEEDING TAX YEAR; EXCEPT THAT THE TAX CREDIT MAY NOT BE CARRIED FORWARD TO A TAX YEAR THAT BEGINS AFTER DECEMBER 31, 2033. THE TAXPAYER SHALL APPLY THE CARRY FORWARD CREDIT AGAINST THE INCOME TAX LIABILITY FOR THE EARLIEST OF THE INCOME TAX YEARS POSSIBLE. ANY AMOUNT OF THE TAX CREDIT THAT IS NOT USED AFTER THIS PERIOD IS NOT REFUNDABLE.

(3) A QUALIFIED TAXPAYER CLAIMING A CREDIT UNDER THIS PART 5 SHALL SUBMIT THE TAX CREDIT CERTIFICATE WITH ITS TAX RETURN.

24-36-505. Repeal of part. THIS PART 5 IS REPEALED, EFFECTIVE DECEMBER 31, 2040.

SECTION 3. Appropriation. For the 2025-26 state fiscal year, $448,500 is appropriated to the department of treasury. This appropriation is from the general fund. To implement this act, the department may use this appropriation for tax credit administration.

SECTION 4. 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.