

First Extraordinary Session
Seventy-fifth General Assembly
STATE OF COLORADO

BILLPAPER

LLS NO. 25B-0005.01 Jed Franklin x5484

HOUSE BILL

HOUSE SPONSORSHIP

Stewart R. and Camacho,

SENATE SPONSORSHIP

Marchman and Snyder,

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING AUTHORIZING THE DEPARTMENT OF THE TREASURY TO**
102 **SELL TAX CREDITS TO QUALIFIED TAXPAYERS, AND, IN**
103 **CONNECTION THEREWITH, TRANSFERRING THE PROCEEDS TO**
104 **THE GENERAL FUND.**

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,

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.

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.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 4 to article
3 36 of title 24 as follows:

4 **PART 4**

1 SALE OF INSURANCE PREMIUM TAX CREDITS

2 **24-36-401. Legislative declaration - tax preference**
3 **performance statement.** (1) THE GENERAL ASSEMBLY FINDS AND
4 DECLARES THAT:

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

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

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

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

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

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

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

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

19 **24-36-402. Definitions.** AS USED IN THIS PART 4, UNLESS THE
20 CONTEXT OTHERWISE REQUIRES:

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

22 (2) "PREMIUM TAX LIABILITY" MEANS THE LIABILITY IMPOSED BY
23 SECTION 10-3-209 OR 10-6-128, OR, IN THE CASE OF A REPEAL OR
24 REDUCTION BY THE STATE OF THE LIABILITY IMPOSED BY SECTION
25 10-3-209 OR 10-6-128, ANY OTHER TAX LIABILITY IMPOSED UPON AN
26 INSURANCE COMPANY BY THE STATE.

27 (3) "QUALIFIED TAXPAYER" MEANS AN INSURANCE COMPANY

1 AUTHORIZED TO DO BUSINESS IN COLORADO THAT HAS PREMIUM TAX
2 LIABILITY OWING TO THE STATE AND THAT PURCHASES A TAX CREDIT
3 UNDER THIS PART 4. "QUALIFIED TAXPAYER" ALSO INCLUDES AN
4 INSURANCE COMPANY THAT RECEIVES OR ASSUMES A TAX CREDIT
5 TRANSFERRED IN ACCORDANCE WITH SECTION 24-36-403 (7)(e) OR
6 24-36-404 (5).

7 (4) "TAX CREDIT" MEANS THE TAX CREDIT CREATED IN SECTION
8 24-36-403.

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

13 **24-36-403. Insurance premium tax credits - purchase -**
14 **authorization to issue - terms - report.** (1) A QUALIFIED TAXPAYER
15 MAY PURCHASE INSURANCE PREMIUM TAX CREDITS FROM THE
16 DEPARTMENT IN ACCORDANCE WITH THIS SECTION AND MAY APPLY THE
17 TAX CREDITS AGAINST ITS PREMIUM TAX LIABILITY IN ACCORDANCE WITH
18 SECTION 24-36-404.

19 (2) (a) THE DEPARTMENT IS AUTHORIZED TO ISSUE TAX CREDIT
20 CERTIFICATES TO QUALIFIED TAXPAYERS PURSUANT TO THIS PART 4 AND
21 PART 5 OF THIS ARTICLE 36 EQUAL TO THE LESSER OF A TOTAL FACE VALUE
22 OF UP TO ONE HUNDRED TWENTY-FIVE MILLION DOLLARS OR TOTAL SALES
23 PROCEEDS OF UP TO ONE HUNDRED MILLION DOLLARS.

24 (b) THE DEPARTMENT MAY CONTRACT WITH AN INDEPENDENT
25 THIRD PARTY TO CONDUCT OR CONSULT ON A BIDDING PROCESS AMONG
26 QUALIFIED TAXPAYERS TO PURCHASE THE TAX CREDITS.

27 (c) THE DEPARTMENT SHALL CONSULT WITH INSURANCE

1 COMPANIES IN ADVANCE OF ISSUING ANY TAX CREDITS IN ACCORDANCE
2 WITH THIS SECTION.

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

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

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

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

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

24 (II) IF NO AMOUNT IS ESTABLISHED BY THE DEPARTMENT OR
25 INDEPENDENT THIRD PARTY PURSUANT TO SUBSECTION (4)(b)(I) OF THIS
26 SECTION, SEVENTY-FIVE PERCENT OF THE REQUESTED DOLLAR AMOUNT OF
27 TAX CREDITS; AND

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

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

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

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

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

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

19 (d) ANY PENALTIES OR OTHER REMEDIES FOR NONCOMPLIANCE;

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

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

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

26 (7) (a) THE DEPARTMENT SHALL NOT ISSUE A TAX CREDIT
27 CERTIFICATE TO ANY QUALIFIED TAXPAYER THAT FAILS TO PROVIDE THE

1 TAX CREDIT SALE PROCEEDS WITHIN THE TIME THE DEPARTMENT
2 SPECIFIES.

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

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

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

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

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

1 IN THE GENERAL FUND.

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

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

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

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

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

25 (10) THE DEPARTMENT MAY PAY AN INDEPENDENT THIRD PARTY
26 AND ANY CONSULTANTS REASONABLE AND NECESSARY ADMINISTRATIVE,
27 MONITORING, AND CLOSING COSTS USING THE PROCEEDS FROM THE SALE

1 OF TAX CREDITS.

2 **24-36-404. Use of insurance premium tax credits - carry over.**

3 (1) FOR A TAX CREDIT CERTIFICATE ISSUED IN FISCAL YEAR 2025-26, THE
4 DEPARTMENT, IN CONSULTATION WITH THE OFFICE OF STATE PLANNING
5 AND BUDGETING, PRIOR TO THE SALE, MAY DETERMINE THE CALENDAR
6 YEARS IN WHICH THE QUALIFIED TAXPAYER MAY CLAIM THE QUALIFIED
7 TAXPAYER'S TAX CREDIT AGAINST THE QUALIFIED TAXPAYER'S PREMIUM
8 TAX LIABILITY.

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

20 (3) A QUALIFIED TAXPAYER CLAIMING A CREDIT UNDER THIS PART
21 4 SHALL SUBMIT THE TAX CREDIT CERTIFICATE WITH ITS TAX RETURN.

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

25 (5) IF A QUALIFIED TAXPAYER HOLDING AN UNCLAIMED TAX
26 CREDIT IS PART OF A MERGER, ACQUISITION, OR LINE OF BUSINESS
27 DIVESTITURE TRANSACTION, THE TAX CREDIT MAY BE TRANSFERRED TO

1 AND ASSUMED BY THE RESULTING ENTITY IF THE RESULTING ENTITY IS AN
2 INSURANCE COMPANY AUTHORIZED TO DO BUSINESS IN COLORADO THAT
3 HAS PREMIUM TAX LIABILITY. THE QUALIFIED TAXPAYER THAT
4 ORIGINALLY PURCHASED THE CREDIT AND THE RESULTING ENTITY SHALL
5 NOTIFY THE DEPARTMENT IN WRITING OF THE TRANSFER OR ASSUMPTION
6 OF THE CREDIT IN ACCORDANCE WITH PROCEDURES ADOPTED BY THE
7 DEPARTMENT. THE TRANSFER OR ASSUMPTION OF THE TAX CREDIT DOES
8 NOT AFFECT THE TIME SCHEDULE FOR CLAIMING THE TAX CREDIT AS
9 PROVIDED IN THIS SECTION.

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

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

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

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

25 **24-36-405. Repeal of part.** THIS PART 4 IS REPEALED, EFFECTIVE
26 DECEMBER 31, 2040.

27 **SECTION 2.** In Colorado Revised Statutes, **add** part 5 to article

1 36 of title 24 as follows:

2

PART 5

3

SALE OF CORPORATE TAX CREDITS

4

24-36-501. Legislative declaration - tax preference

5

performance statement. (1) THE GENERAL ASSEMBLY FINDS AND

6

DECLARES THAT:

7

(a) THE CORPORATE TAX CREDITS AUTHORIZED BY THIS PART 5 ARE

8

NOT REFUNDABLE AND DO NOT IMPOSE AN OBLIGATION OF PAYMENT IN

9

ANY FUTURE YEAR ON THE STATE;

10

(b) THE USE OF PROCEEDS FROM THE SALE OF CORPORATE TAX

11

CREDITS DOES NOT REQUIRE THE STATE TO BORROW MONEY, EXTEND OR

12

PLEDGE THE STATE'S CREDIT, OR OBLIGATE THE STATE TO MAKE FUTURE

13

PAYMENTS FROM STATE REVENUE;

14

(c) THE SALE AND USE OF THE CORPORATE TAX CREDITS SHALL

15

NOT BE DEEMED OR CONSTRUED AS CREATING INDEBTEDNESS OR OTHER

16

FINANCIAL OBLIGATION WHATSOEVER WITHIN THE MEANING OF ANY

17

PROVISION OF THE STATE CONSTITUTION OR THE LAWS OF THE STATE

18

CONCERNING OR LIMITING THE CREATION OF INDEBTEDNESS OR OTHER

19

FINANCIAL OBLIGATION BY THE STATE;

20

(d) THE TAX CREDITS ALLOW A CORPORATION WITH AN INCOME

21

TAX LIABILITY TO PREPAY ITS TAX LIABILITY FOR FUTURE YEARS, WHICH

22

DOES NOT CONSTITUTE A TAX POLICY CHANGE UNDER SECTION 20 (4)(a)

23

OF ARTICLE X OF THE STATE CONSTITUTION; AND

24

(e) ANY PROCEEDS FROM THE SALE OF THE TAX CREDITS WILL BE

25

OFFSET BY DECREASES IN FUTURE REVENUE RESULTING FROM THE BUYER'S

26

USE OF THE TAX CREDITS AND THEREFORE WILL NOT CAUSE A NET TAX

27

REVENUE GAIN UNDER SECTION 20 (4)(a) OF ARTICLE X OF THE STATE

1 CONSTITUTION.

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

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

20 **24-36-502. Definitions.** AS USED IN THIS PART 5, UNLESS THE
21 CONTEXT OTHERWISE REQUIRES:

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

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

25 (3) "QUALIFIED TAXPAYER" MEANS A C CORPORATION
26 AUTHORIZED TO DO BUSINESS IN COLORADO THAT HAS INCOME TAX
27 LIABILITY OWING TO THE STATE AND THAT PURCHASES A TAX CREDIT

1 UNDER THIS PART 5. "QUALIFIED TAXPAYER" ALSO INCLUDES A C
2 CORPORATION THAT RECEIVES OR ASSUMES A TAX CREDIT TRANSFERRED
3 IN ACCORDANCE WITH SECTION 24-36-503 (7)(e) OR 24-36-504 (5).

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

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

10 **24-36-503. Corporate tax credits - purchase - authorization to**

11 **issue - terms - report.** (1) A QUALIFIED TAXPAYER MAY PURCHASE
12 INCOME TAX CREDITS FROM THE DEPARTMENT IN ACCORDANCE WITH THIS
13 SECTION AND MAY APPLY THE TAX CREDITS AGAINST ITS INCOME TAX
14 LIABILITY IN ACCORDANCE WITH SECTION 24-36-504.

15 (2) (a) THE DEPARTMENT IS AUTHORIZED TO ISSUE TAX CREDIT
16 CERTIFICATES TO QUALIFIED TAXPAYERS PURSUANT TO THIS PART 5 AND
17 PART 4 OF THIS ARTICLE 36 EQUAL TO THE LESSER OF A TOTAL FACE VALUE
18 OF UP TO ONE HUNDRED TWENTY-FIVE MILLION DOLLARS OR TOTAL SALES
19 PROCEEDS OF UP TO ONE HUNDRED MILLION DOLLARS.

20 (b) THE DEPARTMENT MAY CONTRACT WITH AN INDEPENDENT
21 THIRD PARTY TO CONDUCT OR CONSULT ON A BIDDING PROCESS AMONG
22 QUALIFIED TAXPAYERS TO PURCHASE THE TAX CREDITS.

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

26 (3) A C CORPORATION AUTHORIZED TO DO BUSINESS IN COLORADO
27 SEEKING TO PURCHASE TAX CREDITS MUST APPLY TO THE DEPARTMENT IN

1 THE MANNER PRESCRIBED BY THE DEPARTMENT.

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

9 THE OFFER MUST INCLUDE:

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

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

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

20 (II) IF NO AMOUNT IS ESTABLISHED BY THE DEPARTMENT OR
21 INDEPENDENT THIRD PARTY PURSUANT TO SUBSECTION (4)(b)(I) OF THIS
22 SECTION, SEVENTY-FIVE PERCENT OF THE REQUESTED DOLLAR AMOUNT OF
23 TAX CREDITS; AND

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

26 (5) THE DEPARTMENT SHALL PROVIDE WRITTEN NOTICE TO EACH
27 C CORPORATION THAT SUBMITS AN APPLICATION INDICATING WHETHER

1 THE C CORPORATION HAS BEEN APPROVED AS A PURCHASER OF TAX
2 CREDITS AND, IF SO, THE AMOUNT OF TAX CREDITS ALLOCATED AND THE
3 DATE BY WHICH PAYMENT OF THE TAX CREDIT SALE PROCEEDS MUST BE
4 MADE.

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

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

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

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

15 (d) ANY PENALTIES OR OTHER REMEDIES FOR NONCOMPLIANCE;

16 (e) THE PROCEDURES TO BE USED FOR TRANSFERRING OR
17 ASSUMING THE TAX CREDITS IN ACCORDANCE WITH SUBSECTION (7)(e) OF
18 THIS SECTION OR SECTION 24-36-504 (5);

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

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

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

26 (b) A QUALIFIED TAXPAYER THAT FAILS TO PROVIDE THE TAX
27 CREDIT SALE PROCEEDS WITHIN THE TIME THE DEPARTMENT SPECIFIES IS

1 SUBJECT TO A PENALTY EQUAL TO TEN PERCENT OF THE AMOUNT OF THE
2 PURCHASE PRICE THAT REMAINS UNPAID. THE PENALTY MUST BE PAID TO
3 THE DEPARTMENT WITHIN THIRTY DAYS AFTER DEMAND.

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

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

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

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

25 (9) (a) THE DEPARTMENT SHALL PROVIDE, WITHIN THIRTY DAYS
26 AFTER THE CLOSE OF THE FISCAL YEAR, A REPORT TO THE DEPARTMENT OF
27 REVENUE FOR EACH FISCAL YEAR IN WHICH IT ISSUES TAX CREDIT

1 CERTIFICATES PURSUANT TO THIS PART 5. THE REPORT MUST INCLUDE:

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

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

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

9 (b) THE DEPARTMENT SHALL MAINTAIN RECORDS OF EACH TAX
10 CREDIT CERTIFICATE ISSUED, TRANSFERRED, OR ASSUMED THAT ARE
11 SUFFICIENT TO ALLOW THE DEPARTMENT OF REVENUE TO VERIFY THE
12 ISSUANCE AND OWNERSHIP OF THE CREDIT. THE DEPARTMENT SHALL
13 PROVIDE THE RECORDS TO THE OFFICE OF THE STATE AUDITOR UPON
14 REQUEST SO THAT THE STATE AUDITOR CAN EVALUATE THE
15 EFFECTIVENESS OF THE TAX CREDITS IN ACCORDANCE WITH SECTIONS
16 24-36-501 (2)(b) AND 39-21-305.

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

21 **24-36-504. Use of corporate income tax credits - carry over.**

22 (1) FOR A TAX CREDIT CERTIFICATE ISSUED IN FISCAL YEAR 2025-26, THE
23 DEPARTMENT, IN CONSULTATION WITH THE OFFICE OF STATE PLANNING
24 AND BUDGETING, PRIOR TO THE SALE, MAY DETERMINE THE CALENDAR
25 YEARS IN WHICH THE QUALIFIED TAXPAYER MAY CLAIM THE QUALIFIED
26 TAXPAYER'S TAX CREDIT AGAINST THE QUALIFIED TAXPAYER'S PREMIUM
27 TAX LIABILITY.

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

12 (3) A QUALIFIED TAXPAYER CLAIMING A CREDIT UNDER THIS PART
13 5 SHALL SUBMIT THE TAX CREDIT CERTIFICATE WITH ITS TAX RETURN.

14 (4) A QUALIFIED TAXPAYER CLAIMING A TAX CREDIT UNDER THIS
15 PART 5 SHALL NOT BE REQUIRED TO PAY ANY ADDITIONAL OR
16 RETALIATORY TAX AS A RESULT OF CLAIMING THE CREDIT.

17 (5) IF A QUALIFIED TAXPAYER HOLDING AN UNCLAIMED TAX
18 CREDIT IS PART OF A MERGER, ACQUISITION, OR LINE OF BUSINESS
19 DIVESTITURE TRANSACTION, THE TAX CREDIT MAY BE TRANSFERRED TO
20 AND ASSUMED BY THE RESULTING ENTITY IF THE RESULTING ENTITY IS A
21 C CORPORATION AUTHORIZED TO DO BUSINESS IN COLORADO THAT HAS
22 INCOME TAX LIABILITY. THE QUALIFIED TAXPAYER THAT ORIGINALLY
23 PURCHASED THE CREDIT AND THE RESULTING ENTITY SHALL NOTIFY THE
24 DEPARTMENT IN WRITING OF THE TRANSFER OR ASSUMPTION OF THE
25 CREDIT IN ACCORDANCE WITH PROCEDURES ADOPTED BY THE
26 DEPARTMENT. THE TRANSFER OR ASSUMPTION OF THE TAX CREDIT DOES
27 NOT AFFECT THE TIME SCHEDULE FOR CLAIMING THE TAX CREDIT AS

1 PROVIDED IN THIS SECTION.

2 (6) THE DEPARTMENT SHALL PROVIDE A REPORT TO THE
3 DEPARTMENT OF REVENUE FOR EACH FISCAL YEAR IN WHICH IT ISSUES TAX
4 CREDIT CERTIFICATES PURSUANT TO THIS PART 5 WITHIN THIRTY DAYS
5 AFTER THE CLOSE OF THE FISCAL YEAR. THE REPORT MUST INCLUDE:

6 (a) THE NAME AND FEDERAL TAX IDENTIFICATION NUMBER OF
7 EACH QUALIFIED TAXPAYER TO WHICH THE DEPARTMENT ISSUED A TAX
8 CREDIT CERTIFICATE;

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

11 (c) THE SERIAL NUMBER OF THE TAX CREDIT CERTIFICATE ISSUED,
12 TRANSFERRED, OR ASSUMED THAT IS SUFFICIENT TO ALLOW THE
13 DEPARTMENT OF REVENUE TO VERIFY THE ISSUANCE AND OWNERSHIP OF
14 THE TAX CREDIT.

15 **24-36-505. Repeal of part.** THIS PART 5 IS REPEALED, EFFECTIVE
16 DECEMBER 31, 2040.

17 **SECTION 3. Safety clause.** The general assembly finds,
18 determines, and declares that this act is necessary for the immediate
19 preservation of the public peace, health, or safety or for appropriations for
20 the support and maintenance of the departments of the state and state
21 institutions.