

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 26-0143.01 Jed Franklin x5484

HOUSE BILL 26-1223

HOUSE SPONSORSHIP

Woodrow and Boesenecker, Bacon, Brown, Clifford, Lindsay, McCluskie, McCormick, Nguyen, Rutinel, Sirota, Smith, Zokaie

SENATE SPONSORSHIP

Ball and Roberts,

House Committees

Finance
Appropriations

Senate Committees

Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING MODIFYING 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>.)

Section 2 of the bill creates a new tax credit. The new tax credit allows taxpayers to claim a refundable tax credit, in addition to the child tax credit and the family affordability tax credit, in an amount determined by the amount and age of the taxpayer's children and the taxpayer's income. The total amount of the new tax credit is adjusted annually based on legislative council staff projections, such that the total amount of the new tax credit claimed in an income tax year is projected to be the same as the amount of revenue raised in **sections 3 and 4**.

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.

HOUSE
3rd Reading Unamended
May 4, 2026

HOUSE
Amended 2nd Reading
May 1, 2026

Beginning January 1, 2027, the bill also repeals the downloaded software sales and use tax exemption so that all software that is available for repeated sale and license qualifies as tangible property and thus is subject to sales and use tax. The bill exempts from sales and use tax downloaded software governed by a negotiable license agreement or developed for use by a particular user.

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

2 **SECTION 1. Legislative declaration.**

3 (1) The general assembly finds and declares that:

4 (a) The general assembly has an ongoing responsibility to review,
5 evaluate, and update the state tax code within constitutional limitations
6 to ensure that the state code is effective, equitable, and aligned with
7 Colorado's priorities;

8 (b) (I) The downloaded software sales and use tax exemption
9 exempts certain software that is downloaded at the time of purchase from
10 sales and use tax by modifying the definition of tangible personal
11 property to not include certain types of software;

12 (II) Unlike Colorado, thirty-four states subject the sale and use of
13 downloadable software to state sales and use tax;

14 (III) At the local level in Colorado, unlike the state level, many
15 home rule municipalities subject the sale and use of downloadable
16 software to a local sales and use tax. Therefore, the sales and use tax
17 treatment of the sale and use of downloadable software is not consistent
18 across the state.

19 (IV) The primary purpose of the downloaded software sales and
20 use tax exemption tax expenditure was to resolve taxpayer confusion and
21 decrease administrative burden by clarifying the definition of tangible
22 personal property as it relates to software; and

1 (V) The primary purpose of modifying the downloaded software
2 sales and use tax exemption tax expenditure is to further resolve taxpayer
3 confusion and decrease administrative burden by clarifying that all
4 computer software available for repeated sale and governed by a
5 nonnegotiable license agreement qualifies as tangible personal property
6 and is subject to sales and use tax;

7 (c) (I) Colorado state income tax is determined based on the
8 amount of a person's federal taxable income;

9 (II) Recent federal law modified the computation of federal
10 taxable income and so impacted Colorado state income tax revenue;

11 (III) The recent federal modification to the computation of federal
12 taxable income reduced state income tax revenue;

13 (IV) The amount and availability of the family affordability tax
14 credit is determined in part by the amount of state income tax revenue;

15 (V) Therefore, by modifying the computation of federal taxable
16 income, federal law impacted the amount and availability of the family
17 affordability tax credit; and

18 (VI) At least in part due to the enactment of recent federal law, the
19 family affordability tax credit will not be available for the 2026 state
20 income tax year and will be available in a reduced amount for income tax
21 years 2027 and 2028;

22 (d) (I) In establishing the family affordability tax credit, the
23 general assembly found and declared that:

24 (A) Colorado families struggle to afford many necessary goods
25 and services, such as child care, housing, and health care. Eighty-three
26 percent of Colorado parents worry that their children won't be able to
27 afford to live in the state in the future.

1 (B) Targeted tax credits are a proven tool to lift families out of
2 poverty. Research has shown that families that claim these types of tax
3 credits, such as the state and federal child tax credit and the state and
4 federal earned income tax credit, have better health, improved schooling
5 outcomes, and increased adult earning potential. As the cost of raising
6 children has increased, a family affordability tax credit is critical for the
7 well-being of many children and families across Colorado.

8 (C) According to the Institute on Taxation and Economic Policy,
9 "[t]o cut child poverty rates by half, the majority of states would require
10 a base credit value of between three thousand dollars and four thousand
11 five hundred dollars per child plus a twenty percent boost for young
12 children." When coupled with the state and federal earned income tax
13 credit and the state and federal child tax credit, the additional investment
14 provided by the family affordability tax credit would establish Colorado
15 as a national leader in equitable economic policy.

16 (D) Colorado is dealing with rising costs and funding shortfalls in
17 many areas across our state, and it is necessary to provide tax credits to
18 the people who need it most in a way that will do the most good.
19 Establishing the family affordability tax credit is a proven way to do that;
20 and

21 (E) By prioritizing the state's lowest-income families, expanding
22 the child age eligibility, and including more families, the state can provide
23 research-backed investments for families. Through thoughtful and
24 strategic investment, Colorado can cut child poverty nearly in half.

25 (II) Therefore, it is a priority of Colorado to provide a tax credit
26 that targets the same taxpayers that the family affordability tax credit
27 targeted, to offset the reduction in the family affordability tax credit.

1 (e) (I) This **House Bill 26-1223** constitutes a single comprehensive
2 tax policy change that emphasizes a high-quality, fair tax system based on
3 principles of horizontal and vertical equity. Horizontal equity holds that
4 similarly situated taxpayers who engage in the same activity should be
5 treated equally. Repealing the downloadable software sales tax exemption
6 promotes horizontal equity by treating the taxation of all software
7 purchasers the same whether the purchaser downloads the software or
8 purchases it at a physical retail location. Vertical equity holds that
9 taxpayers who can pay more in taxes should pay more in taxes. Creating
10 a tax credit that prioritizes low- and middle-income families with children
11 reduces the tax burden on the families who can afford to pay the least in
12 taxes.

13 (II) The tax credits created in this **House Bill 26-1223** reduces
14 state tax revenue in an amount equal to or greater than the amount of state
15 revenue gain attributable to the changes made in this **House Bill 26-1223**;

16 (III) Any net district revenue gain resulting from the tax policy
17 change in this **House Bill 26-1223** is incidental and de minimis; and

18 (IV) Therefore, consistent with the Colorado Supreme Court's
19 holding in *TABOR Found. v. Reg'l Transp. Dist.*, 2018 CO 29, that a tax
20 policy change that causes either no net district tax revenue gain or a net
21 district tax revenue gain that is only incidental and de minimis does not
22 require voter approval under section 20 (4)(a) of article X of the state
23 constitution, this **House Bill 26-1223** is not a tax policy change that
24 requires voter approval.

25 **SECTION 2.** In Colorado Revised Statutes, **add** 39-22-131 as
26 follows:

27 **39-22-131. Family affordability credit - tax preference**

1 **performance statement - legislative declaration - definitions.**

2 (1) (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 HEREBY FINDS AND
6 DECLARES THAT THE PURPOSES OF THE INCOME TAX CREDIT CREATED IN
7 THIS SECTION ARE THE SAME AS THE FAMILY AFFORDABILITY TAX CREDIT:
8 TO SUBSTANTIALLY REDUCE CHILD POVERTY, MAKE COLORADO MORE
9 AFFORDABLE FOR FAMILIES, AND HELP FAMILIES AFFORD EXPENSES
10 ASSOCIATED WITH HAVING CHILDREN BY PROVIDING TAX RELIEF FOR
11 CERTAIN INDIVIDUALS.

12 (b) THE GENERAL ASSEMBLY AND THE STATE AUDITOR, IN
13 CONSULTATION WITH THE DEPARTMENT, SHALL MEASURE THE
14 EFFECTIVENESS OF THE INCOME TAX CREDIT CREATED IN THIS SECTION IN
15 COMBINATION WITH THE FAMILY AFFORDABILITY TAX CREDIT AND, IN THE
16 SAME MANNER AS THE GENERAL ASSEMBLY AND THE STATE AUDITOR
17 MEASURE THE EFFECTIVENESS OF THE FAMILY AFFORDABILITY TAX CREDIT
18 BY DETERMINING THE NUMBER OF COLORADO FAMILIES THAT, AFTER
19 CLAIMING A CREDIT PURSUANT TO THIS SECTION AND THE FAMILY
20 AFFORDABILITY TAX CREDIT, NO LONGER FALL BELOW THE FEDERAL
21 POVERTY LEVEL IN THE TAX YEAR IN WHICH THEY CLAIMED THE CREDITS.

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

24 (a) "CREDIT" MEANS THE CREDIT AGAINST INCOME TAX CREATED
25 IN THIS SECTION.

26 (b) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

27 (c) "ELIGIBLE CHILD" MEANS A QUALIFYING CHILD, AS DEFINED IN

1 SECTION 152 (c) OF THE "INTERNAL REVENUE CODE OF 1986"; EXCEPT
2 THAT THE AGE REQUIREMENTS ARE AS SET FORTH IN SUBSECTIONS
3 (3)(a)(I), (3)(a)(II), (3)(b)(I), AND (3)(b)(II) OF THIS SECTION.

4 (d) "FEDERAL POVERTY LEVEL" MEANS THE POVERTY LINE THAT
5 IS REQUIRED TO BE UPDATED ANNUALLY WITHIN THE FEDERAL POVERTY
6 GUIDELINES ADOPTED BY THE UNITED STATES DEPARTMENT OF HEALTH
7 AND HUMAN SERVICES PURSUANT TO 42 U.S.C. SEC. 9902 (2).

8 (e) "INFLATION" MEANS THE ANNUAL PERCENTAGE CHANGE IN THE
9 UNITED STATES DEPARTMENT OF LABOR BUREAU OF LABOR STATISTICS
10 CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL
11 ITEMS PAID BY ALL URBAN CONSUMERS, OR ITS APPLICABLE SUCCESSOR
12 INDEX.

13 (f) "JOINT FILER ADJUSTED BASE INCOME" MEANS, FOR INCOME
14 TAX YEARS COMMENCING BEFORE JANUARY 1, 2034, AN AMOUNT OF
15 ADJUSTED GROSS INCOME EQUAL TO THE AMOUNT OF ADJUSTED GROSS
16 INCOME DETERMINED BY THE DEPARTMENT PURSUANT TO SECTION
17 39-22-130 (7) TO BE NECESSARY FOR TWO RESIDENT INDIVIDUALS WHO
18 FILE A JOINT RETURN TO QUALIFY FOR THE FAMILY AFFORDABILITY TAX
19 CREDIT PURSUANT TO SECTION 39-22-130 FOR THE INCOME TAX YEAR
20 COMMENCING ON JANUARY 1, 2027.

21 (g) "SINGLE FILER ADJUSTED BASE INCOME" MEANS, FOR INCOME
22 TAX YEARS COMMENCING BEFORE JANUARY 1, 2034, AN AMOUNT OF
23 ADJUSTED GROSS INCOME EQUAL TO THE AMOUNT OF ADJUSTED GROSS
24 INCOME DETERMINED BY THE DEPARTMENT PURSUANT TO SECTION
25 39-22-130 (7) TO BE NECESSARY FOR A SINGLE RESIDENT INDIVIDUAL WHO
26 FILES A SINGLE RETURN TO QUALIFY FOR THE FAMILY AFFORDABILITY TAX
27 CREDIT PURSUANT TO SECTION 39-22-130 FOR THE INCOME TAX YEAR

1 COMMENCING ON JANUARY 1, 2027.

2 (3) (a) IN ADDITION TO THE CHILD TAX CREDIT ALLOWED BY
3 SECTION 39-22-129 AND THE FAMILY AFFORDABILITY TAX CREDIT
4 ALLOWED BY SECTION 39-22-130, FOR INCOME TAX YEARS COMMENCING
5 ON OR AFTER JANUARY 1, 2027, A RESIDENT INDIVIDUAL WHO FILES A
6 SINGLE RETURN IS ALLOWED A CREDIT AGAINST THE INCOME TAXES
7 IMPOSED PURSUANT TO THIS ARTICLE 22 FOR:

8 (I) EACH ELIGIBLE CHILD OF THE RESIDENT INDIVIDUAL WHO IS
9 FIVE YEARS OLD OR YOUNGER AT THE CLOSE OF THE INCOME TAX YEAR IN
10 AN AMOUNT DETERMINED BY STAFF OF THE LEGISLATIVE COUNCIL
11 PURSUANT TO SUBSECTION (5)(b) OF THIS SECTION; AND

12 (II) EACH ELIGIBLE CHILD OF THE RESIDENT INDIVIDUAL WHO IS SIX
13 YEARS OLD OR OLDER BUT LESS THAN SEVENTEEN YEARS OLD AT THE
14 CLOSE OF THE INCOME TAX YEAR IN AN AMOUNT THAT IS SEVENTY-FIVE
15 PERCENT OF THE AMOUNT ALLOWED IN SUBSECTION (3)(a)(I) OF THIS
16 SECTION.

17 (b) IN ADDITION TO THE CHILD TAX CREDIT ALLOWED BY SECTION
18 39-22-129 AND THE FAMILY AFFORDABILITY TAX CREDIT ALLOWED BY
19 SECTION 39-22-130, FOR INCOME TAX YEARS COMMENCING ON OR AFTER
20 JANUARY 1, 2027, TWO RESIDENT INDIVIDUALS WHO FILE A JOINT RETURN
21 ARE ALLOWED A ___ CREDIT AGAINST THE INCOME TAXES DUE IMPOSED
22 PURSUANT TO THIS ARTICLE 22 FOR:

23 (I) EACH ELIGIBLE CHILD OF THE RESIDENT INDIVIDUAL WHO IS
24 FIVE YEARS OLD OR YOUNGER AT THE CLOSE OF THE INCOME TAX YEAR IN
25 AN AMOUNT DETERMINED BY STAFF OF THE LEGISLATIVE COUNCIL
26 PURSUANT TO SUBSECTION (5)(b) OF THIS SECTION; AND

27 (II) EACH ELIGIBLE CHILD OF THE RESIDENT INDIVIDUAL WHO IS SIX

1 YEARS OLD OR OLDER BUT LESS THAN SEVENTEEN YEARS OLD AT THE
2 CLOSE OF THE INCOME TAX YEAR IN AN AMOUNT THAT IS SEVENTY-FIVE
3 PERCENT OF THE AMOUNT ALLOWED IN SUBSECTION (3)(b)(I) OF THIS
4 SECTION.

5 (4) (a) NOTWITHSTANDING SUBSECTION (3) OF THIS SECTION, FOR
6 INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2027, THE
7 CREDIT AMOUNTS IN:

8 (I) SUBSECTION (3)(a)(I) OF THIS SECTION ARE REDUCED, BUT NOT
9 BELOW ZERO, BY AN AMOUNT EQUAL TO SIX AND EIGHT HUNDRED
10 SEVENTY-FIVE ONE-THOUSANDTHS PERCENT FOR EACH FIVE THOUSAND
11 DOLLARS BY WHICH A RESIDENT INDIVIDUAL'S ADJUSTED GROSS INCOME
12 EXCEEDS THE SINGLE FILER ADJUSTED BASE INCOME; AND

13 (II) SUBSECTION (3)(b)(I) OF THIS SECTION ARE REDUCED, BUT NOT
14 BELOW ZERO, BY AN AMOUNT EQUAL TO SIX AND EIGHT HUNDRED
15 SEVENTY-FIVE ONE-THOUSANDTHS PERCENT FOR EACH FIVE THOUSAND
16 DOLLARS BY WHICH TWO RESIDENT INDIVIDUALS' ADJUSTED GROSS
17 INCOME EXCEEDS THE JOINT FILER ADJUSTED BASE INCOME.

18 (b) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
19 1, 2028, THE DEPARTMENT SHALL ADJUST THE JOINT FILER ADJUSTED
20 BASED INCOME AND SINGLE FILER ADJUSTED BASE INCOME TO REFLECT
21 INFLATION FOR EACH INCOME TAX YEAR IN WHICH THE CREDIT DESCRIBED
22 IN THIS SECTION IS ALLOWED IF CUMULATIVE INFLATION SINCE THE LAST
23 ADJUSTMENT, WHEN APPLIED TO THE CURRENT LIMITS, RESULTS IN AN
24 INCREASE OF AT LEAST ONE THOUSAND DOLLARS WHEN THE ADJUSTED
25 LIMITS ARE ROUNDED TO THE NEAREST ONE THOUSAND DOLLARS.

26 (5) BEGINNING WITH THE QUARTERLY DECEMBER REVENUE
27 FORECAST THAT LEGISLATIVE COUNCIL STAFF PRESENTS IN DECEMBER OF

1 2026, AND FOR EACH DECEMBER REVENUE FORECAST THEREAFTER, AS
2 PART OF THE QUARTERLY DECEMBER REVENUE FORECAST, LEGISLATIVE
3 COUNCIL STAFF SHALL DETERMINE:

4 (a) FOR THE CURRENT CALENDAR YEAR, A PROJECTION OF THE
5 AMOUNT OF STATE REVENUE GAIN DIRECTLY ATTRIBUTABLE TO THE
6 CHANGES MADE IN THIS HOUSE BILL 26-1223, NOTWITHSTANDING THE
7 CREDIT CREATED IN THIS SECTION;

8 (b) A DOLLAR AMOUNT OF THE CREDIT AVAILABLE PURSUANT TO
9 SUBSECTIONS (3)(a)(I) AND (3)(b)(I) OF THIS SECTION, WHICH DOLLAR
10 AMOUNT MUST BE THE SAME FOR BOTH SUBSECTIONS (3)(a)(I) AND
11 (3)(b)(I) OF THIS SECTION, SUCH THAT THE STAFF OF THE LEGISLATIVE
12 COUNCIL PROJECTS, FOR THE CURRENT CALENDAR YEAR, THAT THE TOTAL
13 DOLLAR AMOUNT OF CREDITS CLAIMED PURSUANT TO SUBSECTION (3) OF
14 THIS SECTION WILL EQUAL THE DOLLAR AMOUNT THAT STAFF OF THE
15 LEGISLATIVE COUNCIL DETERMINES PURSUANT TO SUBSECTION (5)(a) OF
16 THIS SECTION.

17 (6) IN THE CASE OF A PART-YEAR RESIDENT, THE CREDIT IS
18 APPORTIONED IN THE RATIO DETERMINED UNDER SECTION 39-22-110 (1).

19 (7) THE CREDIT IS NOT CONSIDERED TO BE INCOME OR RESOURCES
20 FOR THE PURPOSE OF DETERMINING ELIGIBILITY FOR THE PAYMENT OF
21 PUBLIC ASSISTANCE BENEFITS AND MEDICAL ASSISTANCE BENEFITS
22 AUTHORIZED UNDER STATE LAW OR FOR A PAYMENT MADE UNDER ANY
23 OTHER PUBLICLY FUNDED PROGRAM.

24 (8) THE AMOUNT OF THE CREDIT THAT EXCEEDS THE RESIDENT
25 INDIVIDUAL'S INCOME TAXES DUE IS REFUNDED TO THE INDIVIDUAL.

26 (9) THE DEPARTMENT IS AUTHORIZED AND ENCOURAGED TO
27 DEVELOP A MEANS OF REFUNDING THE CREDITS TO RESIDENT INDIVIDUALS

1 WHO QUALIFY FOR THE CREDITS IN TWELVE EQUAL MONTHLY REFUNDS
2 RATHER THAN ANNUALLY.

3 (10) NOTWITHSTANDING SECTION 39-21-304(4), THE CREDIT DOES
4 NOT REPEAL AFTER A SPECIFIED PERIOD OF TAX YEARS.

5 **SECTION 3.** In Colorado Revised Statutes, 39-26-102, **amend**
6 (5.7) and (15)(c) as follows:

7 **39-26-102. Definitions - repeal.**

8 As used in this article 26, unless the context otherwise requires:

9 (5.7) "Mainframe computer access" means the provision of access
10 to computer equipment for the purpose of storing or processing data.
11 "Mainframe computer access" does not include the provision of access to
12 computer equipment for the purpose of examining or acquiring data
13 maintained by the vendor. ~~"Mainframe computer access" does not include~~
14 ~~the provision of access to computer equipment incident to electronic~~
15 ~~computer software delivery, as defined in subsection (15)(c)(H)(C) of this~~
16 ~~section, or incident to the use of computer software hosted by an~~
17 ~~application service provider, as defined in subsection (15)(c)(H)(A) of~~
18 ~~this section.~~

19 (15) (c) (I) ~~"Tangible personal property" commencing July 1,~~
20 ~~2012, shall include~~ INCLUDES computer software. ~~if the computer~~
21 ~~software meets all of the following criteria:~~

22 ~~(A) The computer software is prepackaged for repeated sale or~~
23 ~~license;~~

24 ~~(B) The use of the computer software is governed by a tear-open~~
25 ~~nonnegotiable license agreement; and~~

26 ~~(C) The computer software is delivered to the customer in a~~
27 ~~tangible medium. Computer software is not delivered to the customer in~~

1 ~~a tangible medium if it is provided through an application service~~
2 ~~provider, delivered by electronic computer software delivery, or~~
3 ~~transferred by load and leave computer software delivery.~~

4 (II) As used in this ~~paragraph (c)~~ SUBSECTION (15)(c), unless the
5 context otherwise requires:

6 (A) ~~"Application service provider" or "ASP" means an entity that~~
7 ~~retains custody over or hosts computer software for use by third parties.~~
8 ~~Users of the computer software hosted by an ASP typically will access the~~
9 ~~computer software via the internet. The ASP may or may not own or~~
10 ~~license the computer software, but generally will own and maintain~~
11 ~~hardware and networking equipment required for the user to access the~~
12 ~~computer software. Where the ASP owns the computer software, the ASP~~
13 ~~may charge the user a license fee for the computer software or a fee for~~
14 ~~maintaining the computer software or hardware used by its customer.~~

15 (B) "Computer software" means a set of coded instructions THAT
16 ARE BOTH designed to cause a computer or ~~automatic data processing~~
17 ~~equipment to perform a task~~ OTHER ELECTRONIC DEVICE TO PERFORM A
18 TASK AND ARE DELIVERED BY ANY MEANS, INCLUDING COMPACT DISC,
19 DOWNLOAD, OR REMOTE ACCESS THROUGH THE INTERNET. "COMPUTER
20 SOFTWARE" INCLUDES APPLICATIONS INSTALLED ON CELLULAR PHONES,
21 TABLETS, OR OTHER MOBILE DEVICES.

22 (C) ~~"Electronic computer software delivery" means computer~~
23 ~~software transferred by remote telecommunications to the purchaser's~~
24 ~~computer, where the purchaser does not obtain possession of any tangible~~
25 ~~medium in the transaction.~~

26 (D) ~~"Load and leave computer software delivery" means delivery~~
27 ~~of computer software to the purchaser by use of a tangible medium where~~

1 the title to or possession of the tangible medium is not transferred to the
2 purchaser, and where the computer software is manually loaded by the
3 vendor, or the vendor's representative, at the purchaser's location.

4 (E) ~~"Prepackaged for repeated sale or license" means computer~~
5 ~~software that is prepackaged for repeated sale or license in the same form~~
6 ~~to multiple users without modification, and is typically sold in a~~
7 ~~shrink-wrapped box.~~

8 (F) ~~"Tangible medium" means a tape, disk, compact disc, card, or~~
9 ~~comparable physical medium.~~

10 (G) ~~"Tear-open nonnegotiable license agreement" means a license~~
11 ~~agreement contained on or in the package, which by its terms becomes~~
12 ~~effective upon opening of the package and accepting the licensing~~
13 ~~agreement. "Tear-open nonnegotiable license agreement" does not~~
14 ~~include a written license agreement or contract signed by the licensor and~~
15 ~~the licensee.~~

16 (III) ~~The internalized instruction code that controls the basic~~
17 ~~operations, such as arithmetic and logic, of the computer causing it to~~
18 ~~execute instructions contained in system programs is an integral part of~~
19 ~~the computer and is not normally accessible or modifiable by the user.~~
20 ~~Such internalized instruction code is considered part of the hardware and~~
21 ~~considered tangible personal property that is taxable pursuant to section~~
22 ~~39-26-104 (1)(a). The fact that the vendor does or does not charge~~
23 ~~separately for such code is immaterial.~~

24 (IV) ~~If a retailer sells computer software to a Colorado purchaser~~
25 ~~that is considered tangible personal property taxable pursuant to section~~
26 ~~39-26-104 (1)(a) and the Colorado purchaser pays the retailer for a~~
27 ~~quantity of computer software licenses with the intent to distribute the~~

1 ~~computer software to any of the purchaser's locations outside of~~
2 ~~Colorado, the measure of Colorado sales tax due is the total of the license~~
3 ~~fees associated only with the licenses that are actually used in Colorado.~~
4 ~~The Colorado purchaser shall provide a written statement to the retailer,~~
5 ~~attesting to the amount of the license fees associated with Colorado and~~
6 ~~with points outside of Colorado. The written statement shall relieve the~~
7 ~~retailer of any liability associated with the proration.~~

8 SECTION 4. In Colorado Revised Statutes, 39-26-102, add
9 (21)(c) as follows:

10 **39-26-102. Performance statement - definitions - repeal.**

11 As used in this article 26, unless the context otherwise requires:

12 (21) (c) (I) BEGINNING JULY 1, 2026, A RETAILER THAT SELLS
13 FOOD OR DRINK AS DESCRIBED IN SECTION 39-26-104 (1)(e) IS DEEMED TO
14 USE GAS AND ELECTRICITY IN THE PROCESSING OF PREPARED FOOD AS
15 FOLLOWS:

16 (A) IF THE RETAILER'S SALES OF PREPARED FOOD EXCEED
17 TWENTY-FIVE PERCENT OF THE RETAILER'S TOTAL SALES REVENUE, ONE
18 HUNDRED PERCENT OF THE PURCHASE PRICE PAID BY THE RETAILER FOR
19 GAS AND ELECTRICITY IS EXEMPT FROM TAXATION UNDER THE PROVISIONS
20 OF THIS PART 1. THE RETAILER MAY CLAIM THE EXEMPTION DESCRIBED IN
21 THIS SUBSECTION (21)(c)(I)(A) WITH THE GAS OR ELECTRIC SERVICE
22 UTILITY OR AS A CREDIT AGAINST THE TAX COLLECTED BY THE RETAILER.

23 (B) IF THE RETAILER'S SALES OF PREPARED FOOD ARE
24 TWENTY-FIVE PERCENT OR LESS OF THE RETAILER'S TOTAL SALES
25 REVENUE, THE RETAILER IS ALLOWED A CREDIT AGAINST THE TAX
26 COLLECTED BY THE RETAILER PURSUANT TO THIS PART 1 IN AN AMOUNT
27 EQUAL TO ONE-HALF OF ONE PERCENT OF A RETAILER'S SALES OF

1 PREPARED FOOD.

2 (II) A RETAILER WHO CHOOSES TO CLAIM THE CREDIT ALLOWED
3 BY THIS SUBSECTION (21)(c) MUST CLAIM THE CREDIT FOR THE PREVIOUS
4 CALENDAR YEAR ON THE SALES TAX RETURN MADE FOR THE MONTH OF
5 JANUARY; EXCEPT THAT A SEASONAL RETAILER MUST CLAIM THE CREDIT
6 ON THE SALES TAX RETURN MADE FOR THE MONTH OF JUNE.

7 SECTION 5. In Colorado Revised Statutes, 39-26-105, amend
8 (1.3)(a)(V)(B), (1.3)(a)(V)(C), (1.3)(c), (1.3)(c.5), and (1.3)(f.7); and add
9 (1.3)(a)(V)(D) and (1.3)(a)(V)(E) as follows:

10 = **39-26-105. Vendor liable for tax - definitions - repeal.**

11 (1.3) (a) As used in this subsection (1.3), unless the context
12 otherwise requires:

13 (V) (B) On and after June 14, 2021, but before ~~June 3, 2022~~ BUT
14 BEFORE THE EFFECTIVE DATE OF THIS SUBSECTION (1.3)(a)(V)(B), AS
15 AMENDED, "specified sales tax period" means sales made in June 2021,
16 July 2021, and August 2021, for which monthly returns must be filed
17 pursuant to subsection (1)(b) of this section, on July 20, 2021, August 20,
18 2021, and September 20, 2021, respectively.

19 (C) ~~On and after June 3, 2022~~ ON AND AFTER THE EFFECTIVE DATE
20 OF THIS SUBSECTION (1.3)(a)(V)(C), AS AMENDED, "specified sales tax
21 period" means sales made in July 2022, August 2022, and September
22 2022, for which monthly returns must be filed pursuant to subsection
23 (1)(b) of this section, on August 20, 2022, September 20, 2022, and
24 October 20, 2022, respectively.

25 (D) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION
26 (1.3)(a)(V)(D), AS AMENDED, "SPECIFIED SALES TAX PERIOD" MEANS
27 SALES MADE IN JULY 2027, AUGUST 2027, NOVEMBER 2027, AND

1 DECEMBER 2027, FOR WHICH MONTHLY RETURNS MUST BE FILED
2 PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION, ON AUGUST 20, 2027,
3 SEPTEMBER 20, 2027, DECEMBER 20, 2027, AND JANUARY 20, 2028,
4 RESPECTIVELY.

5 (E) IN ADDITION TO THE DEFINITION IN SUBSECTION (1.3)(a)(V)(D),
6 ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (1.3)(a)(V)(E),
7 AS AMENDED, "SPECIFIED SALES TAX PERIOD" MEANS SALES MADE IN JULY
8 2028, AUGUST 2028, NOVEMBER 2028, AND DECEMBER 2028, FOR WHICH
9 MONTHLY RETURNS MUST BE FILED PURSUANT TO SUBSECTION (1)(b) OF
10 THIS SECTION, ON AUGUST 20, 2028, SEPTEMBER 20, 2028, DECEMBER 20,
11 2028, AND JANUARY 20, 2029, RESPECTIVELY.

12 (c) A qualifying retailer in the mobile food services industry may
13 deduct from state net taxable sales the lesser of aggregate state net taxable
14 sales for all sites or ~~seventy thousand dollars~~ FOURTEEN THOUSAND
15 DOLLARS per motorized vehicle or nonmotorized cart, not to exceed five
16 motorized vehicles or nonmotorized carts, and retain the resulting state
17 sales tax collected for each month IN THE SPECIFIED SALES TAX PERIOD
18 specified in subsection (1.3)(a)(V)(A) of this section.

19 (c.5) A qualifying retailer in the catering industry may deduct
20 from state net taxable sales the lesser of aggregate state net taxable sales
21 for all events or ~~seventy thousand dollars~~ FOURTEEN THOUSAND DOLLARS,
22 and retain the resulting state sales tax collected for each month specified
23 in subsection (1.3)(a)(V) of this section.

24 (f.7) To the extent that information is available and without
25 changing the sales tax return form, the department of revenue shall
26 include a report to its committee of reference at a hearing held in January
27 2023 EACH YEAR, pursuant to section 2-7-203 (2)(a) of the "State

1 Measurement for Accountable, Responsive, and Transparent (SMART)
2 Government Act" specifying:

3 (I) The amount of sales tax revenue that the state did not collect
4 in 2022 THE PREVIOUS CALENDAR YEAR as a result of the deduction
5 allowed in this subsection (1.3); and

6 (II) How many retailers elected to take advantage of the deduction
7 allowed in this subsection (1.3) in 2022 THE PREVIOUS CALENDAR YEAR.

8 **SECTION 6.** In Colorado Revised Statutes, 39-26-123, **amend**
9 **(3)(b)(I)(B) as follows:**

10 **39-26-123. Receipts - disposition - transfers of general fund**
11 **surplus - sales tax holding fund - creation - definitions.**

12 (3) For any state fiscal year commencing on or after July 1, 2013,
13 the state treasurer shall credit eighty-five percent of all net revenue
14 collected under this article 26 to the old age pension fund created in
15 section 1 of article XXIV of the state constitution. The state treasurer
16 shall credit to the general fund the remaining fifteen percent of the net
17 revenue, less:

18 (b)(I)(B) Except as set forth in subsection (3)(b)(II) of this section
19 and subject to subsection (3)(b)(III) of this section, beginning January 1,
20 2026, AND UNTIL DECEMBER 31, 2026, MONTHLY, an amount equal to one
21 and six hundred fifty-five thousandths percent of net revenue excluding
22 net revenue collected under part 2 of this article 26, which amount the
23 state treasurer shall credit to the housing development grant fund created
24 in section 24-32-721 (1), AND, BEGINNING JANUARY 1, 2027, MONTHLY,
25 AN AMOUNT EQUAL TO ONE AND SIX HUNDRED TWENTY-FIVE
26 THOUSANDTHS PERCENT OF NET REVENUE EXCLUDING NET REVENUE
27 COLLECTED UNDER PART 2 OF THIS ARTICLE 26, WHICH AMOUNT THE STATE

1 TREASURER SHALL CREDIT TO THE HOUSING DEVELOPMENT GRANT FUND
2 CREATED IN SECTION 24-32-721 (1).

3 **SECTION 7.** In Colorado Revised Statutes, 39-26-713, **add** (3)
4 as follows:

5 **39-26-713. Tangible personal property.**

6 (3) THE SALE, STORAGE, USE, OR CONSUMPTION OF COMPUTER
7 SOFTWARE, AS DEFINED IN SECTION 39-26-102 (15)(c)(II)(B), IS EXEMPT
8 FROM TAXATION UNDER THE PROVISIONS OF PARTS 1 AND 2 OF THIS
9 ARTICLE 26 IF THAT SALE, STORAGE, USE, OR CONSUMPTION OF COMPUTER
10 SOFTWARE IS EITHER GOVERNED BY A NEGOTIABLE LICENSE AGREEMENT
11 OR DEVELOPED FOR USE BY A PARTICULAR USER.

12 (a) FOR PURPOSES OF THIS ARTICLE 26, "NEGOTIATED LICENSE
13 AGREEMENT" MEANS A WRITTEN AGREEMENT OR CONTRACT THAT IS
14 INDIVIDUALLY BARGAINED BETWEEN THE LICENSOR AND LICENSEE AND
15 THAT IS SIGNED IN WRITING BY AUTHORIZED REPRESENTATIVES OF BOTH
16 THE LICENSOR AND LICENSEE PRIOR TO OR CONTEMPORANEOUS WITH THE
17 LICENSEE'S ACCESS TO OR USE OF THE SOFTWARE.

18 (b) FOR PURPOSES OF THIS ARTICLE 26, "INDIVIDUALLY BARGAINED
19 BETWEEN THE LICENSOR AND LICENSEE" SPECIFICALLY EXCLUDES A
20 STANDARD, FORM, OR BOILERPLATE AGREEMENT THAT IS OFFERED BY THE
21 LICENSOR ON A NONNEGOTIABLE OR SUBSTANTIALLY NONNEGOTIABLE
22 BASIS TO MULTIPLE LICENSEES, REGARDLESS OF WHETHER THE
23 AGREEMENT BEARS A HANDWRITTEN OR ELECTRONIC SIGNATURE, OR THE
24 AGREEMENT IS PRINTED ON, WITHIN, OR AFFIXED TO THE SOFTWARE
25 PACKAGING; EMBEDDED WITHIN THE COMPUTER SOFTWARE ITSELF; OR
26 PRESENTED AS PART OF THE TERMS AND CONDITIONS OF ANY WEBSITE OR
27 APPLICATION THROUGH WHICH THE SOFTWARE IS ACQUIRED, ACCESSED, OR

1 USED.

2 (c) FOR PURPOSES OF THIS ARTICLE 26, "SIGNED IN WRITING BY
3 AUTHORIZED REPRESENTATIVES OF BOTH THE LICENSOR AND LICENSEE"
4 SPECIFICALLY EXCLUDES AN ACCEPTANCE BY THE LICENSEE ON A
5 CLICK-THROUGH, BROWSE-WRAP, SHRINK-WRAP, EMBEDDED SIGNATURE,
6 IMPLIED, ACCOUNT CREATION, OR ANY OTHER AUTOMATED BASIS; EXCEPT
7 THAT "SIGNED IN WRITING BY AUTHORIZED REPRESENTATIVES OF BOTH
8 THE LICENSOR AND LICENSEE" MAY INCLUDE A SIGNATURE PERFORMED
9 THROUGH AN ELECTRONIC SIGNATURE METHOD AUTHORIZED PURSUANT
10 TO SECTION 39-21-120 AND DEPARTMENT RULES AND SPECIFICALLY
11 INCLUDES ELECTRONIC SIGNATURE METHODS SUCH AS DOCUSIGN OR A
12 SIMILAR AUTHENTICATED ELECTRONIC SIGNATURE.

13 **SECTION 8.** In Colorado Revised Statutes, 39-26-715, add
14 (2)(b)(IV) as follows:

15 **39-26-715. Fuel and oil - definitions.**

16 (2) The following are exempt from taxation under the provisions
17 of part 2 of this article 26:

18 (b) (IV) BEGINNING JULY 1, 2026, FOR PURPOSES OF THIS
19 SUBSECTION (2)(b), THE DEEMED USAGE RULES SET FORTH IN SECTION
20 39-26-102 (21)(c)(I) APPLY.

21 **SECTION 9.** In Colorado Revised Statutes, 29-2-105, add (11)
22 as follows:

23 **29-2-105. Contents of sales tax ordinances and proposals.**

24 (11) NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE SALE
25 AND USE OF COMPUTER SOFTWARE AS TANGIBLE PERSONAL PROPERTY, AS
26 THOSE TERMS ARE DEFINED IN SECTION 39-26-102 (15)(c), ON DECEMBER
27 31, 2026, IS SUBJECT TO TAXATION BY A COUNTY OR MUNICIPALITY

1 PURSUANT TO ARTICLE 26 OF TITLE 39, UNLESS A COUNTY OR
2 MUNICIPALITY ELECTS TO DEFINE COMPUTER SOFTWARE AS TANGIBLE
3 PERSONAL PROPERTY, AS THOSE TERMS ARE DEFINED IN SECTION
4 39-26-102 (15)(c), ON JANUARY 1, 2027, IN A MANNER AND METHOD THAT
5 COMPLIES WITH SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION,
6 FOR THE PURPOSE OF SUBJECTING COMPUTER SOFTWARE AS TANGIBLE
7 PERSONAL PROPERTY TO TAXATION PURSUANT TO ARTICLE 26 OF TITLE 39.

8 **SECTION 10.** In Colorado Revised Statutes, 32-9-119, add
9 (2)(d) as follows:

10 **32-9-119. Additional powers of district.**

11 (2) (d) NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE SALE
12 AND USE OF COMPUTER SOFTWARE AS TANGIBLE PERSONAL PROPERTY, AS
13 THOSE TERMS ARE DEFINED IN SECTION 39-26-102 (15)(c), ON DECEMBER
14 31, 2026, IS SUBJECT TO TAXATION BY THE DISTRICT PURSUANT TO
15 ARTICLE 26 OF TITLE 39, UNLESS THE DISTRICT ELECTS TO DEFINE
16 COMPUTER SOFTWARE AS TANGIBLE PERSONAL PROPERTY, AS THOSE
17 TERMS ARE DEFINED IN SECTION 39-26-102 (15)(c), ON JANUARY 1, 2027,
18 IN A MANNER AND METHOD THAT COMPLIES WITH SECTION 20 OF ARTICLE
19 X OF THE STATE CONSTITUTION, FOR THE PURPOSE OF SUBJECTING
20 COMPUTER SOFTWARE AS TANGIBLE PERSONAL PROPERTY TO TAXATION
21 PURSUANT TO ARTICLE 26 OF TITLE 39.

22 **SECTION 11.** In Colorado Revised Statutes, 32-13-107, amend
23 (1)(a) as follows:

24 **32-13-107. Sales and use tax imposed - collection -**
25 **administration of tax - use - definitions.**

26 (1) (a) (I) Except as otherwise provided in paragraph (b) of this
27 ~~subsection (1)~~ SUBSECTION (1)(b) OF THIS SECTION, upon the approval of

1 the registered electors pursuant to the provisions of section 32-13-105, the
2 board has the power to levy such uniform sales and use taxes throughout
3 the district created in section 32-13-104 upon every transaction or other
4 incident with respect to which a sales and use tax is levied by the state,
5 pursuant to the provisions of article 26 of title 39; ~~C.R.S.~~; except that
6 beginning July 1, 2016, such sales and use tax shall not be levied or
7 collected on the sale or use of aviation fuel.

8 (II) NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE SALE
9 AND USE OF COMPUTER SOFTWARE AS TANGIBLE PERSONAL PROPERTY, AS
10 THOSE TERMS ARE DEFINED IN SECTION 39-26-102 (15)(c), ON DECEMBER
11 31, 2026, IS SUBJECT TO TAXATION BY THE DISTRICT PURSUANT TO
12 ARTICLE 26 OF TITLE 39, UNLESS THE DISTRICT ELECTS TO DEFINE
13 COMPUTER SOFTWARE AS TANGIBLE PERSONAL PROPERTY, AS THOSE
14 TERMS ARE DEFINED IN SECTION 39-26-102 (15)(c), ON JANUARY 1, 2027,
15 IN A MANNER AND METHOD THAT COMPLIES WITH SECTION 20 OF ARTICLE
16 X OF THE STATE CONSTITUTION, FOR THE PURPOSE OF SUBJECTING
17 COMPUTER SOFTWARE AS TANGIBLE PERSONAL PROPERTY TO TAXATION
18 PURSUANT TO ARTICLE 26 OF TITLE 39.

19 **SECTION 12. Applicability.** Sections 3 and 4 of this act apply
20 to the sale, storage, use, and consumption of tangible personal property
21 on or after January 1, 2027.

22 **SECTION 13. Act subject to petition - effective date.**

23 (1) Except as otherwise provided in this section, this act takes
24 effect at 12:01 a.m. on the day following the expiration of the ninety-day
25 period after final adjournment of the general assembly (August 12, 2026,
26 if adjournment sine die is on May 13, 2026); except that, if a referendum
27 petition is filed pursuant to section 1 (3) of article V of the state

1 constitution against this act or an item, section, or part of this act within
2 such period, then the act, item, section, or part will not take effect unless
3 approved by the people at the general election to be held in November
4 2026 and, in such case, will take effect on the date of the official
5 declaration of the vote thereon by the governor.

6 (2) Section 2 of this act takes effect only if House Bill 26-1221 and
7 House Bill 26-1222 do not become law.