

HOUSE COMMITTEE OF REFERENCE AMENDMENT
Committee on Finance.

HB25-1296 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

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

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

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

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

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

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

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

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

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

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

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

40 (VI) The repeal of this tax expenditure will cause only a de

1 minimis revenue gain that is incidental to the primary purpose of
2 repealing the tax expenditure;

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

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

14 (III) The office of the state auditor's 2024 evaluation of the
15 business personal property tax income tax credit indicated that less than
16 1% of business personal property taxpayers in the state claim the income
17 tax credit and many of those credits were claimed erroneously or were
18 miscalculated, suggesting that the cost of administering the income tax
19 credit is larger than its benefit to taxpayers;

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

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

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

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

41 (III) The purpose of limiting the amount of, and who may qualify
42 for, the enterprise zone investment tax credit is to narrow the scope of the
43 tax expenditure so that it will achieve its original purpose of incentivizing

1 the formation of businesses and the creation of jobs within economically
2 distressed parts of Colorado; and

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

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

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

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

26 **25-1.5-106. Medical marijuana program - powers and duties
27 of state health agency - rules - medical review board - medical
28 marijuana program cash fund - subaccount - created - "Ethan's
29 Law" - definitions - repeal.** (16) **Fees.** (a) The state health agency may
30 collect fees from patients who, pursuant to section 14 of article XVIII of
31 the state constitution or subsection (9) of this section, apply to the medical
32 marijuana program for a registry identification card for the purpose of
33 offsetting the state health agency's direct and indirect costs of
34 administering the program. The amount of the fees shall be set by rule of
35 the state health agency. The amount of the fees set pursuant to this section
36 shall reflect the actual direct and indirect costs of the state licensing
37 authority in the administration and enforcement of this article so that the
38 fees avoid exceeding the statutory limit on uncommitted reserves in
39 administrative agency cash funds as set forth in section 24-75-402 (3).
40 The state health agency shall not assess a medical marijuana registry
41 application fee to an applicant who demonstrates, pursuant to a copy of
42 the applicant's state tax return certified by the department of revenue OR
43 A COPY OF THE APPLICANT'S FEDERAL TAX RETURN RECEIVED FROM THE

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

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

9 **10-3-209. Tax on premiums collected - exemptions - penalties**
10 **- filing system - division to contract with third parties - rules - repeal.**

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

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

20 **39-21-113. Reports and returns - rule - repeal.**

21 (37) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THE
22 EXECUTIVE DIRECTOR MAY PROVIDE TO THE DEPARTMENT OF EARLY
23 CHILDHOOD SUCH DETAILED TAXPAYER INFORMATION PERTINENT TO A
24 CLAIM FOR AN INCOME TAX CREDIT FOR AN EARLY CHILDHOOD EDUCATOR
25 PURSUANT TO SECTION 39-22-547, AND SUCH DETAILED TAXPAYER
26 INFORMATION PERTINENT TO A CLAIM FOR AN INCOME TAX CREDIT FOR A
27 CARE WORKER PURSUANT TO SECTION 39-22-566. ANY INFORMATION
28 PROVIDED PURSUANT TO THIS SUBSECTION (37) MUST REMAIN
29 CONFIDENTIAL, AND ALL PERSONS ARE SUBJECT TO THE LIMITATIONS
30 SPECIFIED IN SUBSECTION (4) OF THIS SECTION AND THE PENALTIES
31 SPECIFIED IN SUBSECTION (6) OF THIS SECTION.

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

34 **39-22-104. Income tax imposed on individuals, estates, and**
35 **trusts - single rate - report - tax preference performance statement**
36 **- legislative declaration - definitions - repeal.** (3) There shall be added
37 to the federal taxable income:

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

43 (u) THE AMOUNT OF ANY OVERTIME COMPENSATION EXCLUDED OR

1 DEDUCTED FROM FEDERAL GROSS INCOME.

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

4 **39-22-509. Credit against tax - employer expenditures for
5 alternative transportation options for employees - legislative
6 declaration - definitions - repeal.** (2) As used in this section, unless the
7 context otherwise requires:

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

10 **SECTION 7.** In Colorado Revised Statutes, 39-22-514.5, amend
11 (8)(c)(III) introductory portion as follows:

12 **39-22-514.5. Tax credit for qualified costs incurred in
13 preservation of historic structures - commercial historic preservation
14 tax credit program cash fund - tax preference performance statement
15 - legislative declaration - short title - definitions.** (8) Deadline for
16 incurring specified amount of estimated costs of rehabilitation - proof
17 of compliance - audit of cost and expense certification - issuance of
18 tax credit certificate - commercial structures. (c) Notwithstanding
19 subsection (8)(b) of this section:

20 (III) FOR INCOME TAX YEARS COMMENCING PRIOR TO JANUARY 1,
21 2030, AND FOR APPLICATIONS SUBMITTED PURSUANT TO SUBSECTION (5)
22 OF THIS SECTION PRIOR TO JANUARY 1, 2026, with respect to a certified
23 historic structure that is a qualified commercial structure that is located
24 in an area that the president of the United States has determined to be a
25 major disaster area under section 102 (2) of the federal "Robert T.
26 Stafford Disaster Relief and Emergency Assistance Act", 42 U.S.C. sec.
27 5121 et seq., or that is located in an area that the governor has determined
28 to be a disaster area under the "Colorado Disaster Emergency Act", part
29 7 of article 33.5 of title 24, the tax credit amounts specified in subsections
30 (8)(b)(I) and (8)(b)(II) of this section must be increased as follows for an
31 application that is filed within six years after the disaster determination:

32 **SECTION 8.** In Colorado Revised Statutes, 39-22-517, amend
33 (1), (2), and (4) as follows:

34 **39-22-517. Tax credit for child care center investments -
35 repeal.** (1) With respect to taxable years commencing on or after January
36 1, 1992, and prior to ~~January 1, 2026~~ JANUARY 1, 2029, there is allowed
37 to any person operating a child care center licensed pursuant to section
38 26-6-905 or 26.5-5-309, family child care home licensed pursuant to
39 section 26.5-5-309, or foster care home licensed pursuant to section
40 26-6-905 a credit against the tax imposed by this article 22 in the amount
41 of twenty percent of the taxpayer's annual investment in tangible personal
42 property to be used in such child care center, family child care home, or
43 foster care home.

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

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

14 **39-22-537.5. Credit for personal property taxes paid -**
15 **legislative declaration - definitions - repeal.** (3) (a) For income tax
16 years commencing on or after January 1, 2019, BUT BEFORE JANUARY 1,
17 2026, a taxpayer is allowed a credit against the tax imposed by this article
18 22 equal to the property tax paid in Colorado during the income tax year
19 on up to eighteen thousand dollars of the total actual value of the
20 taxpayer's personal property.

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

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

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

31 (II) THIS SUBSECTION (4)(c) IS REPEALED, EFFECTIVE DECEMBER
32 31, 2026.

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

35 **39-22-566. Qualified care worker tax credit - tax preference**
36 **performance statement - legislative declaration - definitions - repeal.**
37 (2) As used in this section, unless the context otherwise requires:

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

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

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

1 REQUIRED TO BE deducted and withheld in paragraph (a) of this subsection
2 (3) SUBSECTION (3)(a) OF THIS SECTION.

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

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

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

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

42 (20) No amount is required to be deducted and withheld from an
43 employee's wages OR OTHER COMPENSATION pursuant to this section for

1 income tax due to the state if the employee's withholding certificate
2 indicates that the compensation is eligible to be subtracted from federal
3 taxable income pursuant to section 39-22-104 (4)(u).

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

6 **39-26-102. Definitions - repeal.** As used in this article 26, unless
7 the context otherwise requires:

8 (19)(g)(I)(A) For purposes of this subsection (19), BEFORE JULY
9 1, 2025, "agricultural commodities" does not include products regulated
10 under article 10 of title 44.

11 (B) THIS SUBSECTION (19)(g)(I) IS REPEALED, EFFECTIVE JULY 1,
12 2026.

13 (II) FOR PURPOSES OF THIS SUBSECTION (19), ON OR AFER JULY 1,
14 2025, "AGRICULTURAL COMMODITIES" INCLUDES PRODUCTS REGULATED
15 UNDER ARTICLE 10 OF TITLE 44.

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

18 **39-26-104. Property and services taxed - definitions.** (1) There
19 is levied and there shall be collected and paid a tax in the amount stated
20 in section 39-26-106 as follows:

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

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

33 (III) A TAXPAYER WHO PAYS A TAX LEGALLY IMPOSED BY
34 ANOTHER STATE ON A TELEPHONE OR TELEGRAPH SERVICE THAT IS
35 TAXABLE PURSUANT TO THIS SUBSECTION (1)(c.5) IS ALLOWED A CREDIT
36 AGAINST THE TAX IMPOSED BY THIS SECTION IN AN AMOUNT EQUAL TO THE
37 AMOUNT OF THE TAX IMPOSED ON A TELEPHONE OR TELEGRAPH SERVICE
38 BY THE OTHER STATE. A CREDIT ALLOWED PURSUANT TO THIS SUBSECTION
39 (1)(c.5)(III) SHALL NOT EXCEED THE TAX IMPOSED ON A TELEPHONE OR
40 TELEGRAPH SERVICE PURSUANT TO THIS SECTION.

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

43 **39-26-726. Medical marijuana - debilitating conditions and**

1 **ability to purchase.** (1) All sales of medical marijuana to a patient who
2 is determined to be indigent for purposes of waiving the fee required by
3 section 25-1.5-106 C.R.S., ~~shall be~~ ARE exempt from taxation under part
4 1 of this ~~article~~ ARTICLE 26. If the patient is determined to be indigent, the
5 state health agency shall mark ~~his or her~~ THE PATIENT'S registry
6 identification card as such and the patient shall present the card to the
7 licensed medical marijuana center to receive the tax exemption.

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

14 **SECTION 16.** In Colorado Revised Statutes, 39-30-104, **amend**
15 (1)(a), (2)(c)(I) introductory portion, (2)(c)(I)(B), (2)(c)(III), and
16 (2)(c)(IV); **repeal** (2)(b); and **repeal and reenact, with amendments,**
17 (2.5) as follows:

18 **39-30-104. Credit against tax - investment in certain property**
19 - **definitions.** (1) (a) (I) There shall be IS allowed to any person as a
20 credit against the tax imposed by article 22 of this title 39, for income tax
21 years commencing on or after January 1, 1986, an amount equal to the
22 total of three percent of the total qualified investment, as determined
23 under section 46 (c)(2) of the federal "Internal Revenue Code of 1986",
24 as amended, in such taxable year in qualified property as defined in
25 section 48 of the internal revenue code to the extent that such investment
26 is in property that is used solely and exclusively in an enterprise zone for
27 at least one year. The references in this subsection (1) to sections 46
28 (c)(2) and 48 of the internal revenue code mean sections 46 (c)(2) and 48
29 of the internal revenue code as they existed immediately prior to the
30 enactment of the federal "Revenue Reconciliation Act of 1990".

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

41 (B) A TAXPAYER MAY SEEK A WAIVER OF THE LIMITATION ON THE
42 AMOUNT OF CREDIT ESTABLISHED IN SUBSECTION (1)(a)(II)(A) OF THIS
43 SECTION BY COMPLETING A WRITTEN APPLICATION TO THE COLORADO

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

26 (C) THE COLORADO ECONOMIC DEVELOPMENT COMMISSION MAY
27 ALLOW ALL, PART, OR NONE OF A TAXPAYER'S APPLICATION TO WAIVE THE
28 LIMITATION ON THE AMOUNT OF CREDIT ESTABLISHED IN SUBSECTION
29 (1)(a)(II)(A) OF THIS SECTION. THE COLORADO ECONOMIC DEVELOPMENT
30 COMMISSION MUST ISSUE A CREDIT CERTIFICATE THAT SETS FORTH THE
31 AMOUNT OF THE CREDIT THAT THE TAXPAYER IS ALLOWED FOR THE
32 INCOME TAX YEAR IN WHICH THE TOTAL QUALIFIED INVESTMENT IS MADE.
33 THE TAXPAYER SHALL SUBMIT THE CREDIT CERTIFICATE TO THE
34 DEPARTMENT OF REVENUE WITH THE TAXPAYER'S INCOME TAX RETURN
35 FOR THE TAX YEAR FOR WHICH THE COLORADO ECONOMIC DEVELOPMENT
36 COMMISSION ISSUED THE CREDIT CERTIFICATE.

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

1 AND THE COLORADO ECONOMIC DEVELOPMENT COMMISSION'S
2 JUSTIFICATION FOR APPROVING THE APPLICATION.

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

12 (2) (b) ~~In addition to the limitations set forth in paragraph (a) of
13 this subsection (2), for income tax years commencing on or after January
14 1, 2011, but prior to January 1, 2014, any taxpayer that is eligible to claim
15 a credit pursuant to subsection (1) of this section in excess of five
16 hundred thousand dollars shall defer claiming any amount of the credit
17 allowed pursuant to this section that exceeds five hundred thousand
18 dollars until an income tax year commencing on or after January 1, 2014.
19 The five hundred thousand dollar limitation specified in this paragraph
20 (b) shall apply to any credit allowed in the income tax years commencing
21 on or after January 1, 2011, but prior to January 1, 2014, including any
22 amount carried forward from a prior year.~~

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

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

31 (III) (A) Except as otherwise provided in sections 24-46-104.3;
32 ~~24-46-107~~, and 24-46-108 and subsection (2)(c)(III)(B) of this section,
33 any excess credit allowed pursuant to this subsection (2)(c) shall be an
34 investment tax credit carryover to each of the fourteen income tax years
35 following the unused credit year.

36 (B) Except as otherwise provided in ~~sections~~ SECTION
37 24-46-104.3, ~~and 24-46-107~~, any excess credit allowed pursuant to this
38 subsection (2)(c) for a renewable energy investment made in an income
39 tax year commencing before January 1, 2018, shall be an investment tax
40 credit carryover for twenty-two income tax years following the year the
41 credit was originally allowed.

42 (IV) The limitation contained in this ~~paragraph (e)~~ SUBSECTION

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

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

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

20 (b) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
21 JANUARY 1, 2011, BUT PRIOR TO JANUARY 1, 2014, ANY TAXPAYER THAT
22 IS ELIGIBLE TO CLAIM A CREDIT PURSUANT TO SUBSECTION (1) OF THIS
23 SECTION IN EXCESS OF FIVE HUNDRED THOUSAND DOLLARS SHALL DEFER
24 CLAIMING ANY AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THIS
25 SECTION THAT EXCEEDS FIVE HUNDRED THOUSAND DOLLARS UNTIL AN
26 INCOME TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2014. THE FIVE
27 HUNDRED THOUSAND DOLLAR LIMITATION SPECIFIED IN THIS SUBSECTION
28 (2.5)(b) APPLIES TO ANY CREDIT ALLOWED IN THE INCOME TAX YEARS
29 COMMENCING ON OR AFTER JANUARY 1, 2011, BUT PRIOR TO JANUARY 1,
30 2014, INCLUDING ANY AMOUNT CARRIED FORWARD FROM A PRIOR YEAR.

31 (II) EXCEPT AS PROVIDED IN SECTION 24-46-107 AND SUBSECTION
32 (2.5)(b)(III) OF THIS SECTION, A TAXPAYER THAT DEFERRED CLAIMING
33 ANY CREDIT IN EXCESS OF FIVE HUNDRED THOUSAND DOLLARS DURING AN
34 INCOME TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2011, BUT
35 PRIOR TO JANUARY 1, 2014, PURSUANT TO SUBSECTION (2.5)(b)(I) OF THIS
36 SECTION SHALL BE ALLOWED TO CLAIM THE DEFERRED CREDIT AS AN
37 INVESTMENT TAX CREDIT CARRYOVER FOR TWELVE INCOME TAX YEARS
38 FOLLOWING THE YEAR THE CREDIT WAS ORIGINALLY ALLOWED PLUS ONE
39 ADDITIONAL INCOME TAX YEAR FOR EACH INCOME TAX YEAR THAT THE
40 CREDIT WAS DEFERRED PURSUANT TO SUBSECTION (2.5)(b)(I) OF THIS
41 SECTION.

10 (c) THIS SUBSECTION (2.5) IS REPEALED, EFFECTIVE JANUARY 1,
11 2040.

12 **SECTION 17. Safety clause.** The general assembly finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, or safety or for appropriations for
15 the support and maintenance of the departments of the state and state
16 institutions.".

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