

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,

SENATE SPONSORSHIP

Ball and Roberts,

House Committees

Finance
Appropriations

Senate Committees

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.

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 income tax credit created in this House Bill 26-1223
14 reduces state tax revenue in an amount equal to or greater than the
15 amount of state revenue gain attributable to the changes made in this
16 House Bill 26-1223;

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

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

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

1 **39-22-131. Family affordability credit - tax preference**
2 **performance statement - legislative declaration - definitions.**

3 (1) (a) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH
4 REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE
5 A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY
6 LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY HEREBY FINDS AND
7 DECLARES THAT THE PURPOSES OF THE INCOME TAX CREDIT CREATED IN
8 THIS SECTION ARE THE SAME AS THE FAMILY AFFORDABILITY TAX CREDIT:
9 TO SUBSTANTIALLY REDUCE CHILD POVERTY, MAKE COLORADO MORE
10 AFFORDABLE FOR FAMILIES, AND HELP FAMILIES AFFORD EXPENSES
11 ASSOCIATED WITH HAVING CHILDREN BY PROVIDING TAX RELIEF FOR
12 CERTAIN INDIVIDUALS.

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

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

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

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

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

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

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

14 (f) "JOINT FILER ADJUSTED BASE INCOME" MEANS, FOR INCOME
15 TAX YEARS COMMENCING BEFORE JANUARY 1, 2034, AN AMOUNT OF
16 ADJUSTED GROSS INCOME EQUAL TO THE AMOUNT OF ADJUSTED GROSS
17 INCOME DETERMINED BY THE DEPARTMENT PURSUANT TO SECTION
18 39-22-130 (7) TO BE NECESSARY FOR TWO RESIDENT INDIVIDUALS WHO
19 FILE A JOINT RETURN TO QUALIFY FOR THE FAMILY AFFORDABILITY TAX
20 CREDIT PURSUANT TO SECTION 39-22-130 FOR THE INCOME TAX YEAR
21 COMMENCING ON JANUARY 1, 2026.

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

1 CREDIT PURSUANT TO SECTION 39-22-130 FOR THE INCOME TAX YEAR
2 COMMENCING ON JANUARY 1, 2026.

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

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

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

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

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

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

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

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

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

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

27 (5) BEGINNING WITH THE QUARTERLY DECEMBER REVENUE

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

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

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

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

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

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

27 (9) THE DEPARTMENT IS AUTHORIZED AND ENCOURAGED TO

1 DEVELOP A MEANS OF REFUNDING THE CREDITS TO RESIDENT INDIVIDUALS
2 WHO QUALIFY FOR THE CREDITS IN TWELVE EQUAL MONTHLY REFUNDS
3 RATHER THAN ANNUALLY.

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

6 **SECTION 3.** In Colorado Revised Statutes, 39-26-102, **amend**
7 (5.7) and (15)(c) as follows:

8 **39-26-102. Definitions - repeal.**

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

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

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

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

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

27 ~~(C) The computer software is delivered to the customer in a~~

1 ~~tangible medium. Computer software is not delivered to the customer in~~
2 ~~a tangible medium if it is provided through an application service~~
3 ~~provider, delivered by electronic computer software delivery, or~~
4 ~~transferred by load and leave computer software delivery.~~

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

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

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

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

27 (D) ~~"Load and leave computer software delivery" means delivery~~

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

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

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

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

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

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

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

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

11 **39-26-713. Tangible personal property.**

12 (3) THE SALE, STORAGE, USE, OR CONSUMPTION OF COMPUTER
13 SOFTWARE, AS DEFINED IN SECTION 39-26-102 (15)(c)(II)(B), IS EXEMPT
14 FROM TAXATION UNDER THE PROVISIONS OF PARTS 1 AND 2 OF THIS
15 ARTICLE 26 IF THAT SALE, STORAGE, USE, OR CONSUMPTION OF COMPUTER
16 SOFTWARE IS:

- 17 (a) GOVERNED BY A NEGOTIABLE LICENSE AGREEMENT; OR
18 (b) DEVELOPED FOR USE BY A PARTICULAR USER.

19 **SECTION 5.** In Colorado Revised Statutes, 29-2-105, **add** (11)
20 as follows:

21 **29-2-105. Contents of sales tax ordinances and proposals.**

22 (11) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
23 CONTRARY, THE SALE AND USE OF COMPUTER SOFTWARE, AS THAT TERM
24 IS DEFINED IN 39-26-102 (15)(c)(II)(B), IS NOT SUBJECT TO TAXATION BY
25 A COUNTY OR MUNICIPALITY PURSUANT TO PARTS 1 AND 2 OF ARTICLE 26
26 OF TITLE 39, UNLESS THE GOVERNING BODY OF THE COUNTY OR
27 MUNICIPALITY BY RESOLUTION OR ORDINANCE APPROVES A PROPOSAL FOR

1 THE TAXATION OF SUCH COMPUTER SOFTWARE AND THE PROPOSAL IS
2 SUBMITTED TO THE REGISTERED ELECTORS OF THE COUNTY OR
3 MUNICIPALITY IN A MANNER THAT CONFORMS SO FAR AS PRACTICABLE TO
4 THE GENERAL ELECTION LAWS OF THE STATE AND WITH THE PROVISIONS
5 OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

6 **SECTION 6.** In Colorado Revised Statutes, 32-9-119, **add** (2)(d)
7 as follows:

8 **32-9-119. Additional powers of district.**

9 (2) (d) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
10 CONTRARY, THE SALE AND USE OF COMPUTER SOFTWARE, AS THAT TERM
11 IS DEFINED IN 39-26-102 (15)(c)(II)(B), IS NOT SUBJECT TO TAXATION BY
12 THE DISTRICT PURSUANT TO PARTS 1 AND 2 OF ARTICLE 26 OF TITLE 39,
13 UNLESS THE BOARD BY RESOLUTION OR ORDINANCE APPROVES A
14 PROPOSAL FOR THE TAXATION OF SUCH COMPUTER SOFTWARE AND THE
15 PROPOSAL IS SUBMITTED TO THE REGISTERED ELECTORS OF THE DISTRICT
16 IN A MANNER THAT CONFORMS SO FAR AS PRACTICABLE TO THE GENERAL
17 ELECTION LAWS OF THE STATE AND WITH THE PROVISIONS OF SECTION 20
18 OF ARTICLE X OF THE STATE CONSTITUTION.

19 **SECTION 7.** In Colorado Revised Statutes, 32-13-107, **amend**
20 (1)(a) as follows:

21 **32-13-107. Sales and use tax imposed - collection -**
22 **administration of tax - use - definitions.**

23 (1) (a) (I) Except as otherwise provided in ~~paragraph (b) of this~~
24 ~~subsection (1)~~ SUBSECTION (1)(b) OF THIS SECTION, upon the approval of
25 the registered electors pursuant to the provisions of section 32-13-105, the
26 board has the power to levy such uniform sales and use taxes throughout
27 the district created in section 32-13-104 upon every transaction or other

1 incident with respect to which a sales and use tax is levied by the state,
2 pursuant to the provisions of article 26 of title 39; ~~C.R.S.~~; except that
3 beginning July 1, 2016, such sales and use tax shall not be levied or
4 collected on the sale or use of aviation fuel.

5 (II) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
6 CONTRARY, THE SALE AND USE OF COMPUTER SOFTWARE, AS THAT TERM
7 IS DEFINED IN 39-26-102 (15)(c)(II)(B), IS NOT SUBJECT TO TAXATION BY
8 THE DISTRICT PURSUANT TO PARTS 1 AND 2 OF ARTICLE 26 OF TITLE 39,
9 UNLESS THE BOARD BY RESOLUTION OR ORDINANCE APPROVES A
10 PROPOSAL FOR THE TAXATION OF SUCH COMPUTER SOFTWARE AND THE
11 PROPOSAL IS SUBMITTED TO THE REGISTERED ELECTORS OF THE DISTRICT
12 IN A MANNER THAT CONFORMS SO FAR AS PRACTICABLE TO THE GENERAL
13 ELECTION LAWS OF THE STATE AND WITH THE PROVISIONS OF SECTION 20
14 OF ARTICLE X OF THE STATE CONSTITUTION.

15 **SECTION 8. Effective date - applicability.** This act takes effect
16 on passage, except sections 3 and 4 are effective January 1, 2027, and
17 apply to the sale, storage, use, and consumption of tangible personal
18 property on and after January 1, 2027.

19 **SECTION 9. Safety clause.** The general assembly finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, or safety or for appropriations for
22 the support and maintenance of the departments of the state and state
23 institutions.