

CHAPTER 227

TAXATION

HOUSE BILL 23-1260

BY REPRESENTATIVE(S) Soper and Valdez, Woodrow, Amabile, Bird, Boesenecker, Brown, Dickson, Froelich, Hamrick, Jodeh, Lieder, Lindsay, Lindstedt, Lynch, McCormick, Michaelson Jenet, Parenti, Ricks, Sharbini, Snyder, Titone, Vigil, Young, McCluskie, English, Joseph, Marshall, Mauro, Taggart, Velasco, Willford; also SENATOR(S) Baisley and Priola, Bridges, Hansen, Jaquez Lewis, Marchman, Roberts, Rodriguez, Smallwood.

AN ACT

CONCERNING TAX INCENTIVES TO MAXIMIZE INVESTMENTS IN SEMICONDUCTOR AND ADVANCED MANUFACTURING IN COLORADO, AND, IN CONNECTION THEREWITH, AUTHORIZING THE ECONOMIC DEVELOPMENT COMMISSION TO APPROVE REFUND CERTIFICATES FOR CERTAIN INCOME TAX CREDITS, CREATING A SEMICONDUCTOR MANUFACTURING ZONE PROGRAM, MODIFYING THE COLORADO JOB GROWTH INCENTIVE TAX CREDIT FOR SEMICONDUCTOR AND ADVANCED MANUFACTURING, CREATING AN ADVANCED INDUSTRIES TASK FORCE, AND MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **add** 24-46-108 as follows:

24-46-108. Refundable income tax credits for certain businesses located in the state - definitions - repeal. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ADVANCED MANUFACTURING" MEANS THE USE OF INNOVATIVE TECHNOLOGIES AND PROCESSES TO ENHANCE EXISTING AND CREATE NEW PRODUCTS, INCLUDING, BUT NOT LIMITED TO, PRODUCTION ACTIVITIES THAT DEPEND ON AUTOMATION, COMPUTATION, ENHANCED PROTOTYPING, LASERS, NETWORKING, ROBOTICS, SENSING, SIMULATION, AND SOFTWARE, AND OTHER SIMILAR ACTIVITIES AS MAY BE DETERMINED BY THE COMMISSION, IN THIS STATE.

(b) "ARPA" MEANS THE FEDERAL "AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 117-2, AS AMENDED.

(c) "CHIPS ACT" MEANS THE FEDERAL "CREATING HELPFUL INCENTIVES TO

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

PRODUCE SEMICONDUCTORS AND SCIENCE ACT OF 2022", PUB.L. 117-167, AS AMENDED.

(d) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

(e) "INCOME TAX CREDIT" MEANS AN INCOME TAX CREDIT ALLOWED TO A TAXPAYER UNDER SECTION 39-30-104, 39-30-105.1, 39-30-105.5, OR 39-22-531 (2) AND (3)(a)(I)(D).

(f) "INVESTOR" MEANS A PARTNER, SHAREHOLDER, OR MEMBER OF A TAX PAYER THAT IS A PARTNERSHIP, LIMITED LIABILITY COMPANY, S CORPORATION, OR OTHER SIMILAR PASS-THROUGH ENTITY.

(g) "OFFICE" MEANS THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT CREATED IN SECTION 24-48.5-101.

(h) "PROJECT" MEANS A TAXPAYER'S ADVANCED MANUFACTURING OR SEMICONDUCTOR MANUFACTURING BUSINESS ACTIVITIES.

(i) "REFUND CERTIFICATE" MEANS A WRITTEN, CONDITIONAL APPROVAL BY THE COMMISSION THAT IS ASSOCIATED WITH A TAXPAYER'S APPROVED PROJECT AND THAT SETS FORTH THE MAXIMUM AMOUNT OF INCOME TAX CREDITS THAT THE TAXPAYER MAY CLAIM AS A REFUND IN ACCORDANCE WITH THIS SECTION.

(j)(I) "SEMICONDUCTOR MANUFACTURING" MEANS THE FABRICATION, ASSEMBLY, TESTING, ADVANCED PACKAGING, PRODUCTION, OR RESEARCH AND DEVELOPMENT OF SEMICONDUCTORS, MATERIALS USED TO MANUFACTURE OR ENHANCE SEMICONDUCTORS, OR SEMICONDUCTOR MANUFACTURING EQUIPMENT IN THIS STATE FOR WHICH A TAXPAYER MAY RECEIVE FEDERAL FINANCIAL ASSISTANCE UNDER THE CHIPS ACT.

(II) THE DEFINITION OF "SEMICONDUCTOR MANUFACTURING" FOR PURPOSES OF THIS SECTION MAY BE MODIFIED OR EXPANDED BY THE COMMISSION, INCLUDING TO REFLECT ANY DIFFERENCES BETWEEN THE DEFINITION IN SUBSECTION (1)(j)(I) OF THIS SECTION AND THE DEFINITION OF "SEMICONDUCTOR MANUFACTURING" THAT MAY BE USED BY THE UNITED STATES DEPARTMENT OF COMMERCE IN IMPLEMENTING THE CHIPS ACT.

(k) "TAXPAYER" MEANS A PERSON ENGAGED IN ADVANCED MANUFACTURING OR SEMICONDUCTOR MANUFACTURING THAT IS SUBJECT TO TAX UNDER ARTICLE 22 OF TITLE 39.

(2) (a) SUBJECT TO THE LIMITATIONS SET FORTH IN SUBSECTION (2)(b) OF THIS SECTION, FOR STATE FISCAL YEARS 2023-24 THROUGH 2028-29, THE COMMISSION MAY APPROVE AND ISSUE A REFUND CERTIFICATE IF THE APPLICANT DEMONSTRATES THAT THE APPLICANT IS A TAXPAYER THAT IS ENGAGED IN OR WILL ENGAGE IN A PROJECT ELIGIBLE FOR AN INCOME TAX CREDIT. SUBJECT TO THE CONDITIONS IN SUBSECTION (7) OF THIS SECTION AND ANY OTHER CONDITIONS ESTABLISHED BY THE COMMISSION, A TAXPAYER THAT HOLDS A REFUND CERTIFICATE MAY CLAIM A REFUND OF EIGHTY PERCENT OF THE INCOME TAX CREDIT TYPES LISTED ON THE REFUND CERTIFICATE THAT ARE EARNED BY THE TAXPAYER DURING THE TWELVE

YEARS FOLLOWING THE COMMISSION'S APPROVAL AND ARE NOT USED TO OFFSET THE TAXPAYER'S STATE INCOME TAXES DUE. THE LIMITATIONS ON THE AMOUNT OF CREDIT ALLOWED PER INCOME TAX YEAR SET FORTH IN SECTIONS 39-30-104 (2)(c) AND 39-30-105.5 (2) DO NOT APPLY TO INCOME TAX CREDITS REFUNDED UNDER THIS SECTION. REFUNDS OF THE INCOME TAX CREDITS CLAIMED PURSUANT TO THIS SECTION ARE A REDUCTION IN TAX REVENUE.

(b) THE COMMISSION SHALL APPROVE REFUND CERTIFICATES PURSUANT TO THIS SECTION SUBJECT TO THE FOLLOWING LIMITATIONS:

(I) THE MAXIMUM TOTAL AMOUNT OF INCOME TAX CREDITS FOR WHICH THE COMMISSION MAY APPROVE REFUND TAX CREDIT CERTIFICATES FOR ALL TAXPAYERS IS FIFTEEN MILLION DOLLARS PER FISCAL YEAR; EXCEPT THAT, IF THE COMMISSION APPROVES REFUND CERTIFICATES FOR LESS THAN FIFTEEN MILLION DOLLARS OF INCOME TAX CREDITS DURING ANY FISCAL YEAR, THE REMAINING AUTHORIZED BUT UNENCUMBERED AMOUNT OF INCOME TAX CREDITS IS ADDED TO THE MAXIMUM AMOUNT OF INCOME TAX CREDITS FOR WHICH THE COMMISSION MAY APPROVE REFUND CERTIFICATES DURING THE NEXT FISCAL YEAR;

(II) THE MAXIMUM TOTAL AMOUNT OF INCOME TAX CREDITS FOR WHICH THE COMMISSION MAY APPROVE REFUND CERTIFICATES FOR ALL TAXPAYERS FOR ALL FISCAL YEARS FROM JULY 1, 2023, THROUGH JUNE 30, 2028, IS SEVENTY-FIVE MILLION DOLLARS; EXCEPT THAT, IF THE COMMISSION HAS APPROVED REFUND CERTIFICATES FOR LESS THAN SEVENTY-FIVE MILLION DOLLARS OF INCOME TAX CREDITS ON JUNE 30, 2028, THE COMMISSION MAY APPROVE REFUND CERTIFICATES FOR NEW AND EXISTING APPLICANTS EQUAL TO THE REMAINING AMOUNT THROUGH THE FISCAL YEAR ENDING JUNE 30, 2029; AND

(III) COMPLIANCE WITH THE LIMITATIONS SET FORTH IN THIS SUBSECTION (2)(b) SHALL BE CALCULATED BASED ON THE TOTAL AMOUNT OF THE INCOME TAX CREDITS INCLUDED IN THE REFUND CERTIFICATES AND NOT EIGHTY PERCENT OF SUCH AMOUNT.

(c) (I) A TAXPAYER THAT RECEIVES A REFUND CERTIFICATE SHALL NOTIFY THE COMMISSION PROMPTLY IF THE PROJECT INCLUDED IN THE CERTIFICATE IS CANCELED, MODIFIED, OR OTHERWISE BECOMES INELIGIBLE FOR THE ESTIMATED CREDIT, IN WHICH CASE THE REFUND CERTIFICATE MAY BE CANCELED OR MODIFIED.

(II) A REFUND CERTIFICATE MAY BE REVOKED OR MODIFIED IF A TAXPAYER THAT RECEIVES A REFUND CERTIFICATE DOES NOT COMMENCE THE PROJECT APPROVED THEREIN WITHIN TWO YEARS OF THE COMMISSION'S APPROVAL OF THE REFUND CERTIFICATE OR OTHERWISE FAILS TO MEET THE TERMS OF THE REFUND CERTIFICATE.

(III) NOTWITHSTANDING THE LIMITATIONS IN SUBSECTION (2)(b) OF THIS SECTION, IF A TAXPAYER'S REFUND CERTIFICATE IS CANCELED OR MODIFIED PURSUANT TO SUBSECTION (2)(c)(I) OF THIS SECTION OR REVOKED OR MODIFIED PURSUANT TO (2)(c)(II) OF THIS SECTION, THE AMOUNT OF THE CANCELED, REVOKED, OR MODIFIED INCOME TAX CREDITS SHALL BE AVAILABLE TO THE COMMISSION TO USE IN APPROVING OTHER TAXPAYERS' APPLICATIONS FOR A REFUND CERTIFICATE.

(3) A TAXPAYER MUST APPLY TO THE COMMISSION FOR A REFUND CERTIFICATE

ALLOWED UNDER SUBSECTION (2)(a) OF THIS SECTION IN ACCORDANCE WITH DEADLINES, POLICIES, AND PROCEDURES ESTABLISHED BY THE OFFICE, IN CONSULTATION WITH THE COMMISSION, AS FOLLOWS:

(a) A TAXPAYER MUST SUBMIT AN APPLICATION INCLUDING ALL INFORMATION AND DOCUMENTATION REQUIRED FOR A PENDING PROJECT UNDER THIS SUBSECTION (3) TO THE COMMISSION PRIOR TO OBTAINING PRECERTIFICATION OF ANY INCOME TAX CREDIT FOR THE PROJECT PURSUANT TO SECTION 39-30-103 (7) OR 39-36-104 (5)(a) OR ON OR BEFORE THE FIRST DAY OF THE TAXPAYER'S CREDIT PERIOD UNDER SECTION 39-22-531 (1)(d)(II), AS APPLICABLE; AND

(b) AN APPLICATION FOR A REFUND CERTIFICATE MUST BE SUBMITTED IN A FORM PRESCRIBED BY THE OFFICE AND MUST INCLUDE:

(I) EACH INCOME TAX CREDIT TYPE FOR WHICH THE TAXPAYER INTENDS TO REQUEST A REFUND;

(II) A DESCRIPTION OF THE PROJECT THAT WILL SUPPORT EACH INCOME TAX CREDIT TYPE, INCLUDING:

(A) THE LOCATION OF THE PROJECT;

(B) THE INVESTMENT TO BE MADE FOR THE PROJECT;

(C) THE JOBS TO BE CREATED BY THE PROJECT; AND

(D) THE ANTICIPATED TOTAL AMOUNT OF INCOME TAX CREDITS TO BE GENERATED BY THE PROJECT.

(III) IDENTIFICATION OF THE TYPE AND ESTIMATED OR ACTUAL AMOUNT OF ANY ADDITIONAL INCOME TAX CREDITS OR OTHER FINANCIAL ASSISTANCE FROM ANY FEDERAL, STATE, OR LOCAL GOVERNMENT AGENCY RECEIVED, APPLIED FOR, OR INTENDED TO BE APPLIED FOR BY THE TAXPAYER RELATED TO THE SAME PROJECT; AND

(IV) ANY OTHER INFORMATION THE OFFICE OR THE COMMISSION MAY REASONABLY REQUIRE FOR EVALUATION OF THE TAXPAYER'S APPLICATION FOR A REFUND CERTIFICATE.

(c) NOTHING IN SUBSECTION (3)(b) OF THIS SECTION REQUIRES THE DISCLOSURE TO THE PUBLIC OF ANY INFORMATION THAT REVEALS THE AMOUNT OF COMPENSATION PAID TO ANY INDIVIDUAL EMPLOYEE OF A BUSINESS, ANY COLORADO INCOME TAX RETURN, ANY INFORMATION REGARDING EXPENDITURES ON RESEARCH AND DEVELOPMENT, OR OTHER PROPRIETARY INFORMATION OF A BUSINESS INCLUDED IN A TAXPAYER'S APPLICATION.

(4) IN REVIEWING APPLICATIONS SUBMITTED PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION, THE COMMISSION SHALL PRIORITIZE APPLICATIONS DEEMED ELIGIBLE FOR A REFUND CERTIFICATE AS FOLLOWS:

(a) FOR FISCAL YEARS 2023-24 AND 2024-25, THE COMMISSION SHALL GIVE

HIGHEST PRIORITY TO TAXPAYERS ENGAGED IN SEMICONDUCTOR MANUFACTURING THAT HAVE RECEIVED OR ARE EXPECTED TO RECEIVE MATCHING MONEY UNDER ARPA, THE CHIPS ACT, OR OTHER FEDERAL LEGISLATION THAT PROVIDES INCENTIVES FOR SEMICONDUCTOR MANUFACTURING; AND

(b) FOR FISCAL YEARS 2025-26 THROUGH 2028-29, THE COMMISSION SHALL GIVE HIGHEST PRIORITY TO TAXPAYERS ENGAGED IN ADVANCED MANUFACTURING OR SEMICONDUCTOR MANUFACTURING THAT HAVE RECEIVED OR ARE EXPECTED TO RECEIVE MATCHING MONEY UNDER ARPA, THE CHIPS ACT, OR OTHER FEDERAL LEGISLATION THAT PROVIDES INCENTIVES FOR ADVANCED MANUFACTURING OR SEMICONDUCTOR MANUFACTURING.

(5) THE COMMISSION, TAKING INTO CONSIDERATION THE PRIORITY ASSESSMENT CONDUCTED PURSUANT TO SUBSECTION (4) OF THIS SECTION, SHALL APPROVE OR DENY APPLICATIONS FOR REFUND CERTIFICATES IN ITS DISCRETION BASED ON THE FOLLOWING CRITERIA:

(a) WHETHER THE TAXPAYER WAS PREVIOUSLY AWARDED A REFUND CERTIFICATE UNDER THIS SECTION;

(b) THE TYPE AND AMOUNT OF ALL FEDERAL, STATE, AND LOCAL FINANCIAL ASSISTANCE RECEIVED, APPLIED FOR, OR INTENDED TO BE APPLIED FOR BY THE TAXPAYER, AS DISCLOSED PURSUANT TO SUBSECTION (3)(b)(III) OF THIS SECTION, AND THE MANNER IN WHICH THE GOVERNMENTAL ENTITY OFFERING THE APPLICABLE FINANCIAL ASSISTANCE HAS BENEFITTED OR MAY BENEFIT THEREFROM;

(c) THE SIZE OF THE TAXPAYER'S CURRENT OPERATION IN THE STATE RELATIVE TO THE STATE AS A WHOLE AND THE REGION OF THE STATE IN WHICH THE TAXPAYER IS BASED;

(d) ANY STRATEGIC ECONOMIC BENEFITS THAT THE TAXPAYER PROVIDES WITH EXISTING OPERATIONS TO THE STATE OR REGION IN TERMS OF SUPPLY CHAIN, BENEFITS TO OTHER INDUSTRIES, OR OTHER SPILLOVER BENEFITS; AND

(e) ANY ADDITIONAL FORTHCOMING ECONOMIC DEVELOPMENT BENEFITS THAT THE TAXPAYER MAY PROVIDE TO THE STATE OR REGION BASED ON COMMITMENTS THAT THE TAXPAYER HAS RECENTLY MADE OR PROPOSES TO MAKE IN THE NEAR TERM.

(6)(a) THE COMMISSION MAY APPROVE ALL, PART, OR NONE OF THE AMOUNT OF A TAXPAYER'S APPLICATION FOR A REFUND CERTIFICATE MADE PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION. IF THE COMMISSION APPROVES A TAXPAYER'S APPLICATION IN PART, THE COMMISSION MAY APPROVE ADDITIONAL REFUND CERTIFICATES UP TO THE FULL AMOUNT OF THE TAXPAYER'S ORIGINAL APPLICATION IN A SUBSEQUENT FISCAL YEAR THROUGH FISCAL YEAR 2028-29.

(b) UPON APPROVAL BY THE COMMISSION, AND AFTER THE SATISFACTION OF ANY CONTINGENCIES IMPOSED PURSUANT TO SUBSECTION (10) OF THIS SECTION, THE OFFICE SHALL ISSUE A REFUND CERTIFICATE THAT DESCRIBES THE TAXPAYER'S APPROVED PROJECT, INCLUDING THE INFORMATION REQUIRED UNDER SUBSECTION (3)(b)(II) OF THIS SECTION, AND SETS FORTH THE MAXIMUM AMOUNT OF INCOME TAX

CREDITS THAT THE TAXPAYER MAY CLAIM AS A REFUND IN ACCORDANCE WITH THIS SECTION.

(c) IF A TAXPAYER RECEIVING A REFUND CERTIFICATE PURSUANT TO THIS SECTION IS A PARTNERSHIP, LIMITED LIABILITY COMPANY, S CORPORATION, OR OTHER SIMILAR PASS-THROUGH ENTITY, THE TAXPAYER MAY ALLOCATE THE APPROVED MAXIMUM TOTAL AMOUNT OF CREDIT WHICH THE TAXPAYER MIGHT EARN AND USE TO CLAIM A REFUND IN CONNECTION WITH THE TAXPAYER'S PROJECT AMONG ITS INVESTORS IN ANY MANNER AGREED TO BY THE INVESTORS. THE TAXPAYER SHALL CERTIFY TO THE OFFICE THE AMOUNT OF CREDIT ALLOCATED TO EACH INVESTOR AND THE OFFICE SHALL ISSUE REFUND CERTIFICATES IN THE APPROPRIATE AMOUNTS TO EACH INVESTOR. EACH INVESTOR IS ALLOWED TO CLAIM A REFUND OF EIGHTY PERCENT OF THE AMOUNT OF THE CREDIT SUBJECT TO ANY RESTRICTIONS SET FORTH IN THIS SECTION.

(7) TO CLAIM A REFUND IN CONNECTION WITH AN APPROVED REFUND CERTIFICATE, A TAXPAYER MUST:

(a) COMMENCE THE PROJECT APPROVED BY THE COMMISSION IN THE REFUND CERTIFICATE BEFORE THE REFUND CERTIFICATE IS CANCELED, REVOKED, OR MODIFIED BY THE COMMISSION PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION;

(b) EARN ONE OR MORE INCOME TAX CREDITS IN CONNECTION WITH THE APPROVED PROJECT IN ACCORDANCE WITH SECTION 39-30-104, 39-30-105.1, 39-30-105.5, OR 39-22-531 (2) AND (3)(a)(I)(D), NOT LATER THAN TWELVE YEARS FROM THE DATE THE REFUND CERTIFICATE FOR THE INCOME TAX CREDIT IS APPROVED BY THE COMMISSION;

(c) APPLY THE INCOME TAX CREDITS TO THE TAXPAYER'S STATE INCOME TAX LIABILITY, IF ANY, FOR THE INCOME TAX YEAR IN WHICH A REFUND IS CLAIMED;

(d) SUBMIT ALL REQUIRED RECORDS AND INFORMATION TO THE DEPARTMENT ON OR BEFORE THE DUE DATE, INCLUDING EXTENSIONS, FOR FILING THE TAXPAYER'S STATE INCOME TAX RETURN FOR THE INCOME TAX YEAR IN WHICH AN INCOME TAX CREDIT IN EXCESS OF THE AMOUNT APPLIED FOR PURSUANT TO SUBSECTION (7)(c) OF THIS SECTION WILL BE REFUNDED, INCLUDING:

(I) ALL RECORDS AND INFORMATION NECESSARY TO CLAIM THE INCOME TAX CREDIT EARNED IN CONNECTION WITH THE TAXPAYER'S APPROVED PROJECT, INCLUDING THE REQUIRED CERTIFICATION UNDER SECTION 39-30-103 (7) OR 39-36-104 (5);

(II) THE REFUND CERTIFICATE ASSOCIATED WITH THE PROJECT THROUGH WHICH THE TAXPAYER EARNED THE INCOME TAX CREDIT AND THE AMOUNT OF THE CREDIT;

(III) A REFUND ELECTION STATEMENT ON A FORM PRESCRIBED BY THE DEPARTMENT; AND

(IV) ANY ADDITIONAL DOCUMENTATION REQUIRED BY SECTION 39-36-106 (1)(b) OR OTHERWISE REQUIRED BY LAW;

(e) SUBJECT TO THE LIMITATION IN SUBSECTION (8) OF THIS SECTION, AGREE TO RECEIVE A REFUND OF THE EIGHTY PERCENT OF THE AMOUNT OF THE CREDIT REMAINING AFTER APPLYING THE CREDIT UNDER SUBSECTION (7)(c) OF THIS SECTION AND FORGO THE REMAINING TWENTY PERCENT OF THE AMOUNT CLAIMED AS A REFUND; AND

(8) A TAXPAYER MAY NOT CLAIM CUMULATIVE REFUNDS IN EXCESS OF THE MAXIMUM TOTAL AMOUNT OF INCOME TAX CREDITS THAT THE COMMISSION HAS APPROVED IN THE REFUND CERTIFICATE. ANY CREDIT EARNED IN EXCESS OF THE AMOUNT IN THE REFUND CERTIFICATE AND FORGONE UNDER SUBSECTION (7)(e) OF THIS SECTION IS RETAINED BY THE TAXPAYER AND MAY BE USED IN ACCORDANCE WITH THE STATUTE PURSUANT TO WHICH IT WAS EARNED.

(9) ON OR BEFORE SEPTEMBER 30, 2023, AND ON OR BEFORE SEPTEMBER 30 OF EACH CALENDAR YEAR THEREAFTER THROUGH SEPTEMBER 30, 2029, THE COMMISSION SHALL PROVIDE THE DEPARTMENT ALL RECORDS AND INFORMATION REQUIRED BY THE DEPARTMENT TO ESTABLISH THAT A TAXPAYER IS APPROVED TO CLAIM REFUNDABLE INCOME TAX CREDITS UP TO THE MAXIMUM TOTAL AMOUNT APPROVED BY THE COMMISSION IN CONNECTION WITH THE TAXPAYER'S PROJECT AS SET FORTH IN THE TAXPAYER'S REFUND CERTIFICATE FOR THE PRECEDING CALENDAR YEAR OR ANY FISCAL YEAR ENDING IN THE PRECEDING CALENDAR YEAR. THE REPORT MUST CONTAIN THE FOLLOWING INFORMATION FOR EACH TAXPAYER:

(a) THE TAXPAYER'S NAME;

(b) THE TAXPAYER'S COLORADO ACCOUNT NUMBER AND FEDERAL EMPLOYER IDENTIFICATION NUMBER;

(c) EACH INCOME TAX CREDIT TYPE FOR WHICH THE TAXPAYER MAY REQUEST A REFUND, AS IDENTIFIED PURSUANT TO SUBSECTION (3)(b)(I) OF THIS SECTION AND IN THE TAXPAYER'S REFUND CERTIFICATE;

(d) A DESCRIPTION OF THE TAXPAYER'S PROJECT, INCLUDING THE INFORMATION FROM SUBSECTION (3)(b)(II), APPROVED IN THE REFUND CERTIFICATE AS THE BASIS FOR THE TAXPAYER'S INCOME TAX CREDIT CLAIM; AND

(e) THE MAXIMUM TOTAL AMOUNT OF CREDIT THE TAXPAYER MAY USE TO CLAIM A REFUND PURSUANT TO THIS SECTION AS STATED IN THE REFUND CERTIFICATE.

(10) THE COMMISSION, IN CONSULTATION WITH THE OFFICE, MAY ESTABLISH ADDITIONAL POLICIES, PROCEDURES, REQUIREMENTS, AND GUIDELINES TO ADMINISTER THE APPLICATION PROCESS FOR AND APPROVAL OF REFUND CERTIFICATES PURSUANT TO THIS SECTION INCLUDING, BUT NOT LIMITED TO:

(a) A LIMIT ON THE TOTAL REFUND AMOUNT THAT MAY BE APPROVED BY THE COMMISSION FOR A SINGLE TAXPAYER IN A GIVEN YEAR;

(b) A LIMIT ON THE TOTAL REFUND AMOUNT THAT MAY BE APPROVED BY THE COMMISSION FOR A SINGLE TAXPAYER FOR MULTIPLE YEARS OR ALL YEARS FOR WHICH THE TAXPAYER HAS APPLIED FOR A REFUND CERTIFICATE;

(c) A LIMIT ON THE TOTAL REFUND AMOUNT THAT MAY BE APPROVED BY THE COMMISSION FOR A SPECIFIED SEMICONDUCTOR OR ADVANCED MANUFACTURING ACTIVITY;

(d) THE ADOPTION OF NEW OR MODIFICATION OF EXISTING POLICIES, PROCEDURES, REQUIREMENTS, OR GUIDELINES TO ALIGN WITH FEDERAL STATUTES, REGULATIONS, OR GUIDELINES AS NEEDED TO FACILITATE TAXPAYER ELIGIBILITY FOR FEDERAL FINANCIAL ASSISTANCE UNDER ARPA, THE CHIPS ACT, AND OTHER SIMILAR FEDERAL LEGISLATION, INCLUDING BY ENSURING THAT THE TAX INCENTIVES AVAILABLE PURSUANT TO THIS SECTION QUALIFY AS "COVERED INCENTIVES" ACCORDING TO 15 U.S.C. SEC. 4651 (3); OR

(e) CONTINGENCIES THAT MUST BE SATISFIED BY THE TAXPAYER BEFORE THE TAXPAYER CAN OBTAIN A REFUND CERTIFICATE.

(11) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2045.

SECTION 2. In Colorado Revised Statutes, **add** 24-48.5-134 as follows:

24-48.5-134. Advanced manufacturing and STEM industries task force - creation - duties - definition - repeal. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "OFFICE" MEANS THE OFFICE OF ECONOMIC DEVELOPMENT CREATED IN SECTION 24-48.5-101.

(b) "TASK FORCE" MEANS THE ADVANCED MANUFACTURING AND STEM INDUSTRIES TASK FORCE CREATED IN SUBSECTION (2)(a) OF THIS SECTION.

(2)(a) THE ADVANCED MANUFACTURING AND STEM INDUSTRIES TASK FORCE IS CREATED IN THE OFFICE. THE TASK FORCE CONSISTS OF THE FOLLOWING MEMBERS:

(I) TWO MEMBERS OF THE HOUSE OF REPRESENTATIVES, ONE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND ONE APPOINTED BY THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES;

(II) TWO MEMBERS OF THE SENATE, ONE APPOINTED BY THE PRESIDENT OF THE SENATE AND ONE APPOINTED BY THE MINORITY LEADER OF THE SENATE;

(III) TWO REPRESENTATIVES OF THE OFFICE WITH EXPERIENCE IN THE ADMINISTRATION OF THE ADVANCED INDUSTRIES ACCELERATION GRANT PROGRAM, CREATED IN SECTION 24-48.5-117 (3), OR OTHER BUSINESS FUNDING AND INCENTIVES, APPOINTED BY THE DIRECTOR OF THE OFFICE;

(IV) AT LEAST FOUR INDUSTRY REPRESENTATIVES FROM BUSINESSES SUPPORTED BY THE ADVANCED INDUSTRIES ACCELERATION GRANT PROGRAM, WHICH MAY INCLUDE ADVANCED MANUFACTURING, AEROSPACE, BIOSCIENCE, ELECTRONICS, ENERGY AND NATURAL RESOURCES, INFRASTRUCTURE ENGINEERING, OR TECHNOLOGY AND INFORMATION BUSINESSES, APPOINTED BY THE DIRECTOR OF THE OFFICE; AND

(V) THE DIRECTOR OF THE OFFICE OR THE DIRECTOR'S DESIGNEE.

(b) MEMBERS OF THE TASK FORCE SHALL ELECT ONE MEMBER TO SERVE AS CHAIRPERSON.

(c) MEMBERS OF THE TASK FORCE SHALL SERVE WITHOUT COMPENSATION OTHER THAN REIMBURSEMENT FOR REASONABLE AND ACTUAL EXPENSES INCURRED TO ATTEND MEETINGS.

(3)(a) THE TASK FORCE SHALL MEET AT LEAST TWICE DURING THE 2023 INTERIM PERIOD TO:

(I) STUDY THE EFFECTIVENESS OF EXISTING FINANCIAL INCENTIVES, SUPPORT, RESOURCES, AND DEVELOPMENT STRATEGIES FOR ADVANCED MANUFACTURING AND OTHER SCIENCE, TECHNOLOGY, ENGINEERING, AND MATH (STEM) COMPANIES IN COLORADO;

(II) EXAMINE OTHER STATES' STATUTES, REGULATIONS, AND POLICIES INTENDED TO ATTRACT AND PROMOTE THE DEVELOPMENT OF ADVANCED MANUFACTURING AND OTHER STEM COMPANIES; AND

(III) IDENTIFY ANY RECOMMENDED LEGISLATION OR CHANGES IN ADMINISTRATIVE RULES OR POLICIES TO MAKE COLORADO'S ADVANCED MANUFACTURING AND OTHER STEM INDUSTRIES MORE NATIONALLY COMPETITIVE.

(b) THE TASK FORCE SHALL REPORT ITS FINDINGS TO THE GENERAL ASSEMBLY AND THE GOVERNOR IN ACCORDANCE WITH SECTION 24-1-136 (9). THE REPORT SHALL BE SUBMITTED NO LATER THAN DECEMBER 1, 2023, AND SHALL CONTAIN THE TASK FORCE'S RECOMMENDATIONS FOR ALL ISSUES ON WHICH TWO-THIRDS OR MORE OF ITS MEMBERS AGREE. A MINORITY REPORT OF ANY ISSUES INCLUDED IN THE REPORT MUST BE INCLUDED AT THE REQUEST OF ONE OR MORE OF THE DISSENTING MEMBERS.

(c) THE OFFICE SHALL PROVIDE SUCH SERVICES AS THE TASK FORCE MAY REQUEST, INCLUDING:

(I) ADMINISTRATIVE ASSISTANCE, MEETING SPACE, AND OTHER NECESSARY FACILITIES AND SUPPORT SERVICES;

(II) POSTAGE AND PRINTING;

(III) ARRANGING FOR, COORDINATING, AND KEEPING RECORDS OF MEETINGS; AND

(IV) PREPARATION AND DISTRIBUTION OF NOTICES, AGENDAS, MINUTES, AND REPORTS.

(d) THE OFFICE MAY, IN THE DISCRETION OF THE DIRECTOR, CONTRACT WITH AN INDEPENDENT FACILITATOR TO SUPPORT THE TASK FORCE, INCLUDING BY ASSISTING IN DRAFTING THE REPORT REQUIRED BY SUBSECTION (3)(b) OF THIS SECTION.

(4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2025.

SECTION 3. In Colorado Revised Statutes, 39-21-113, **amend** (22) as follows:

39-21-113. Reports and returns - rule - repeal. (22) Notwithstanding the provisions of this section, the executive director shall supply the Colorado office of economic development with information relating to the actual amount of any enterprise zone tax credit claimed pursuant to article 30 of this title OR ANY CHIPS ZONE TAX CREDIT CLAIMED PURSUANT TO ARTICLE 36 OF THIS TITLE as well as information submitted to and aggregated by the department pursuant to section 39-30-111 (2) and (3) AND SECTION 39-36-106 (1) AND (3) regarding ~~the carryforward~~ of such income tax credits. Any information provided to the office pursuant to this subsection (22) shall remain confidential, and all office employees shall be subject to the limitations set forth in subsection (4) of this section and the penalties contained in subsection (6) of this section. Nothing in this subsection (22) shall prevent the office from making aggregated data regarding enterprise zone AND CHIPS ZONE tax credits available.

SECTION 4. In Colorado Revised Statutes, 39-30-104, **amend** (2)(c)(I) introductory portion, (2)(c)(III)(A), and (2.5)(a)(I) as follows:

39-30-104. Credit against tax - investment in certain property - definitions. (2) (c) (I) For income tax years commencing on or after January 1, 2014, except as provided in ~~subparagraph (H) of this paragraph (c)~~ SECTION 24-46-108 AND SUBSECTION (2)(c)(II) OF THIS SECTION, the amount that may be claimed by a taxpayer for an income tax year AND THAT IS NOT APPLIED OR REFUNDED UNDER SECTION 24-46-108 is limited to the lesser of:

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

(2.5) (a) (I) Notwithstanding section 39-22-507.5 (7)(b), except as provided in ~~section 24-46-107~~ SECTIONS 24-46-107 AND 24-46-108, and except as otherwise provided in subsections (2.5)(a)(II) and (2.5)(b) of this section, any excess credit allowed pursuant to this section AND NOT APPLIED OR REFUNDED UNDER SECTION 24-46-108 shall be an investment tax credit carryover to each of the twelve income tax years following the unused credit year.

SECTION 5. In Colorado Revised Statutes, 39-30-105.1, **amend** (4)(a)(I) and (4)(a)(II) as follows:

39-30-105.1. Credit for new enterprise zone business employees - definitions. (4) (a) (I) Except as provided in ~~sections 24-46-104.3 and 24-46-107~~ SECTIONS 24-46-104.3, 24-46-107, AND 24-46-108, for any income tax year commencing on or after January 1, 2014, if the total amount of the credits claimed by a taxpayer pursuant to subsections (1)(a)(I), (1)(b), and (3)(a) of this section exceeds the amount of income taxes due on the income of the taxpayer in the income tax year for which the credits are being claimed, the amount of the credits not used as an offset against income taxes in said income tax year ~~is not allowed as a refund but~~ OR REFUNDED UNDER SECTION 24-46-108 may be carried forward as a credit against

subsequent years' tax liability for a period not exceeding five years and is applied first to the earliest income tax years possible. Any amount of the credit that is not used during said period is not refundable to the taxpayer.

(II) Except as provided in ~~sections 24-46-104.3 and 24-46-107~~ SECTIONS 24-46-104.3, 24-46-107, AND 24-46-108 for any income tax year commencing on or after January 1, 2014, if the total amount of credits claimed by a taxpayer pursuant to subsections (1)(a)(II) and (3)(b) of this section exceeds the amount of income taxes due on the income of the taxpayer in the income tax year for which the credits are being claimed, the amount of credits not used as an offset against income taxes in said income tax year ~~is not allowed as a refund but~~ AND NOT USED TO CLAIM A REFUND UNDER SECTION 24-46-108 may be carried forward as a credit against subsequent years' tax liability for a period not exceeding seven years and is applied first to the earliest income tax years possible. Any amount of the credit that is not used during said period is not refundable to the taxpayer.

SECTION 6. In Colorado Revised Statutes, 39-30-105.5, **amend** (2) introductory portion as follows:

39-30-105.5. Credit against Colorado income taxes based on expenditures for research and experimental activities. (2) Except as provided in ~~section 24-46-104.3~~ SECTIONS 24-46-104.3 AND 24-46-108, in any one tax year, the amount of such credit allowable for deduction from the taxpayer's tax liability AND NOT APPLIED OR REFUNDED UNDER SECTION 24-46-108 shall be the total of:

SECTION 7. In Colorado Revised Statutes, **add** article 36 to title 39 as follows:

ARTICLE 36 CHIPS Zone Act

39-36-101. Short title. THE SHORT TITLE OF THIS ACT IS THE "CHIPS ZONE ACT".

39-36-102. Tax preference performance statement - legislative declaration.
(1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) SEMICONDUCTORS, OR CHIPS, ARE TINY ELECTRONIC DEVICES THAT ARE FUNDAMENTAL TO MODERN INDUSTRIAL AND NATIONAL SECURITY ACTIVITIES. THESE DEVICES POWER TOOLS AS SIMPLE AS A LIGHT SWITCH AND AS COMPLEX AS A FIGHTER JET OR A SMARTPHONE. SEMICONDUCTORS ARE ALSO ESSENTIAL BUILDING BLOCKS IN EMERGING TECHNOLOGIES SUCH AS ARTIFICIAL INTELLIGENCE, 5G COMMUNICATIONS, AND QUANTUM COMPUTING.

(b) IN 2022, THE FEDERAL GOVERNMENT ENACTED THE "CREATING HELPFUL INCENTIVES FOR PRODUCING SEMICONDUCTORS AND SCIENCE ACT", OR "CHIPS AND SCIENCE ACT", PROVIDING FOR OVER FIFTY BILLION DOLLARS TO BE EXPENDED IN STRENGTHENING AND REVITALIZING THE COUNTRY'S POSITION IN SEMICONDUCTOR RESEARCH, DEVELOPMENT, AND MANUFACTURING;

(c) THE "CHIPS AND SCIENCE ACT" IS EXPECTED TO UNLOCK HUNDREDS OF BILLIONS OF DOLLARS OF PRIVATE SECTOR SEMICONDUCTOR INVESTMENT ACROSS THE COUNTRY;

(d) ENACTMENT OF A SEMICONDUCTOR MANUFACTURING ZONE, OR CHIPS ZONE, PROGRAM OF TAX INCENTIVES WILL MAXIMIZE THE OPPORTUNITY FOR COLORADO BUSINESSES TO DRAW DOWN FEDERAL DOLLARS UNDER THE CHIPS ACT AND CAPTURE SOME OF THE BILLIONS OF DOLLARS OF PRIVATE FUNDS EXPECTED TO BE SPENT IN GROWING THE COUNTRY'S SEMICONDUCTOR MANUFACTURING INDUSTRY;

(e) THE THREE TAX CREDITS AVAILABLE UNDER THE PROGRAM, FOR QUALIFIED INVESTMENTS, BUSINESS FACILITY EMPLOYEES, AND EXPENDITURES IN RESEARCH AND EXPERIMENTAL ACTIVITIES WILL ENCOURAGE INVESTMENT TO EXPAND COLORADO'S SEMICONDUCTOR MANUFACTURING CAPACITY AND MAKE COLORADO A NEW CENTER FOR INNOVATION AND RESEARCH IN THIS CRITICAL INDUSTRY;

(f) INVESTING IN SEMICONDUCTOR MANUFACTURERS IN THIS MANNER ALSO MEANS INVESTING IN COLORADO WORKERS, AS GROWTH IN THE SEMICONDUCTOR MANUFACTURING SECTOR WILL NECESSARILY RESULT IN THE CREATION AND RETENTION OF HIGH-SKILLED, WELL-COMPENSATED MANUFACTURING JOBS IN THE STATE;

(g) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH REQUIRES ANY BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY FURTHER DECLARES THAT:

(I) THE GENERAL LEGISLATIVE PURPOSES OF THE TAX CREDITS ALLOWED BY THIS ARTICLE 36 ARE:

(A) TO INDUCE CERTAIN DESIGNATED BEHAVIOR BY TAXPAYERS;

(B) TO IMPROVE INDUSTRY COMPETITIVENESS; AND

(C) TO CREATE OR RETAIN JOBS.

(II) THE SPECIFIC LEGISLATIVE PURPOSES OF THE TAX CREDITS ALLOWED BY THIS ARTICLE 36 ARE:

(A) TO IMPROVE THE COMPETITIVENESS OF COLORADO'S SEMICONDUCTOR MANUFACTURING INDUSTRY;

(B) TO INDUCE INVESTMENT IN NEW AND EXISTING SEMICONDUCTOR MANUFACTURING BUSINESSES IN THE STATE; AND

(C) TO CREATE WELL-PAYING JOBS IN THE PRIVATE SECTOR AS A RESULT OF SUCH INVESTMENT; AND

(III) THE TAX CREDIT CERTIFICATION FORMS REQUIRED FROM TAXPAYERS TO BE EXECUTED BY THE CHIPS ZONE ADMINISTRATOR PURSUANT TO SECTION 39-36-104 (5), THE ANNUAL REPORTS THAT THE ZONE ADMINISTRATOR IS REQUIRED TO MAKE TO THE COLORADO ECONOMIC DEVELOPMENT COMMISSION PURSUANT TO SECTION 39-36-104 (3)(b), AND THE ANNUAL REPORTS THAT THE DIRECTOR OF THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT MUST MAKE TO THE GENERAL ASSEMBLY AND THE LEGISLATIVE AUDIT COMMITTEE UNDER SECTION 39-36-104

(3)(c), WILL PROVIDE OBJECTIVE ECONOMIC DEVELOPMENT DATA POINTS THAT WILL ALLOW THE GENERAL ASSEMBLY AND THE STATE AUDITOR TO MEASURE THE EFFECTIVENESS OF THE CHIPS ZONE TAX CREDITS.

39-36-103. Definitions. (1) AS USED IN THIS ARTICLE 36, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CERTIFICATION" MEANS THE WRITTEN TAX CREDIT CERTIFICATE DOCUMENTING A TAXPAYER'S INCOME TAX CREDIT CLAIM PURSUANT TO SECTION 39-30-104, 39-30-105.1, OR 39-30-105.5 AND THE ESTIMATED VALUE OF EACH CREDIT CERTIFIED BY THE CHIPS ZONE ADMINISTRATOR, FOR WHICH THE TAXPAYER RECEIVED PRECERTIFICATION IN ACCORDANCE WITH SECTION 39-36-104 (5)(b).

(b) "CHIPS ACT" MEANS THE FEDERAL "CREATING HELPFUL INCENTIVES TO PRODUCE SEMICONDUCTORS AND SCIENCE ACT OF 2022", PUB.L. 117-167, AS AMENDED.

(c) "CHIPS ZONE" MEANS A SEMICONDUCTOR MANUFACTURING ZONE APPROVED BY THE COMMISSION PURSUANT TO SECTION 39-36-104 (2)(a).

(d) "COMMISSION" MEANS THE COLORADO ECONOMIC DEVELOPMENT COMMISSION CREATED IN SECTION 24-46-102 (1).

(e) "DEPARTMENT" MEANS THE COLORADO DEPARTMENT OF REVENUE.

(f) "DIRECTOR" MEANS THE DIRECTOR OF THE OFFICE.

(g) "OFFICE" MEANS THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT CREATED IN SECTION 24-48.5-101.

(h) "PRECERTIFICATION" MEANS THE WRITTEN PRECERTIFICATION OF A TAXPAYER'S PROPOSED PROJECT AND ANY RELATED INCOME TAX CREDIT CLAIMS PURSUANT TO SECTION 39-30-104, 39-30-105.1, OR 39-30-105.5, BY THE CHIPS ZONE ADMINISTRATOR IN RELIANCE ON THE TAXPAYER'S REPRESENTATIONS PURSUANT TO SECTION 39-36-104 (5)(a).

(i) "REFUND CERTIFICATE" HAS THE SAME MEANING AS SET FORTH IN SECTION 24-46-108 (1)(h).

(j) "SEMICONDUCTOR MANUFACTURING" HAS THE SAME MEANING AS SET FORTH IN SECTION 24-46-108 (1)(i).

(k) "TAXPAYER" MEANS A PERSON ENGAGED IN SEMICONDUCTOR MANUFACTURING THAT IS SUBJECT TO TAX UNDER ARTICLE 22 OF THIS TITLE 39.

39-36-104. Zones established - zone administrator - review - termination.

(1) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2023, BUT BEFORE JANUARY 1, 2036, ANY MUNICIPALITY, COUNTY, OR GROUP OF CONTIGUOUS MUNICIPALITIES OR COUNTIES MAY PROPOSE AN AREA OF SUCH MUNICIPALITY, COUNTY, OR GROUP OF MUNICIPALITIES OR COUNTIES TO BE DESIGNATED AS A CHIPS

ZONE IN ACCORDANCE WITH THE POLICIES AND PROCEDURES ESTABLISHED BY THE OFFICE AND PURSUANT TO THIS ARTICLE 36.

(b) TO PROPOSE AN AREA FOR DESIGNATION AS A CHIPS ZONE, A LOCAL GOVERNMENT SHALL SUBMIT A DEVELOPMENT PLAN TO THE DIRECTOR. THE PLAN MUST INCLUDE THE FOLLOWING ITEMS:

(I) THE BOUNDARIES OF THE PROPOSED ZONE;

(II) THE PROPOSED ZONE'S POTENTIAL FOR SEMICONDUCTOR MANUFACTURING BUSINESS DEVELOPMENT AND JOB CREATION;

(III) HOW THE PROPOSED ZONE WILL SUPPORT AND BE CONSISTENT WITH MAINTENANCE OF THE AREA'S ECONOMY; AND

(IV) ANY OTHER PERTINENT INFORMATION THE DIRECTOR OR THE COMMISSION MAY REQUIRE, WHICH MAY INCLUDE INFORMATION RELATED TO LOCAL PLANNING, CAPACITY, AND INFRASTRUCTURE.

(2)(a) THE COMMISSION, AFTER CONSULTATION WITH THE OFFICE, MAY APPROVE THE DESIGNATION OF A CHIPS ZONE.

(b) ALL DECISIONS CONCERNING THE DESIGNATION OR TERMINATION OF A CHIPS ZONE OR ANY PORTION OF A CHIPS ZONE SHALL BE MADE BY THE COMMISSION UPON THE RECOMMENDATION OF THE OFFICE.

(3)(a) THE DIRECTOR, OR THE DIRECTOR'S DESIGNEE, SHALL SERVE AS THE ZONE ADMINISTRATOR FOR ALL APPROVED CHIPS ZONES. THE COMMISSION SHALL WORK WITH THE ZONE ADMINISTRATOR TO ENSURE THAT EACH ZONE HAS ECONOMIC DEVELOPMENT OBJECTIVES WITH OUTCOMES THAT CAN BE MEASURED.

(b) THE ZONE ADMINISTRATOR SHALL SUBMIT AN ANNUAL REPORT TO THE COMMISSION SUMMARIZING THE ZONE ADMINISTRATOR'S REVIEW OF DOCUMENTATION, INCLUDING THE MOST RECENT STATISTICS AVAILABLE FOR TAXPAYERS CLAIMING CHIPS ZONE CREDITS, ON:

(I) THE NUMBER OF SEMICONDUCTOR MANUFACTURING JOBS CREATED IN THE ZONE;

(II) THE NUMBER OF SUCH JOBS RETAINED IN THE ZONE;

(III) THE AVERAGE ANNUAL COMPENSATION LEVEL, INCLUDING BENEFITS, OF THE SEMICONDUCTOR MANUFACTURING JOBS CREATED OR RETAINED WITHIN THE ZONE;

(IV) AN ANALYSIS OF CAPITAL INVESTMENT IN THE ZONE, INCLUDING THE AMOUNT OF INVESTMENT IN QUALIFYING PROPERTY FOR WHICH TAX CREDITS ARE CLAIMED PURSUANT TO SECTION 39-30-104;

(V) THE NUMBER OF BUSINESS FACILITY EMPLOYEES FOR WHICH TAX CREDITS ARE CLAIMED PURSUANT TO SECTION 39-30-105.1;

(VI) THE AMOUNT OF INVESTMENT TAX CREDITS CLAIMED PURSUANT TO SECTION 39-30-104 AND THE AMOUNT OF CREDITS FOR EMPLOYEES CLAIMED PURSUANT TO SECTION 39-30-105.1;

(VII) THE NUMBER AND AMOUNT OF TAX CREDITS BASED ON EXPENDITURES FOR RESEARCH AND EXPERIMENTAL ACTIVITIES CLAIMED PURSUANT TO SECTION 39-30-105.5; AND

(VIII) ANY OTHER INFORMATION REASONABLY REQUIRED BY THE COMMISSION TO EVALUATE THE EFFECTIVENESS OF EACH ZONE IN ACCOMPLISHING THE ECONOMIC OBJECTIVES OF THE ZONE.

(c) NOTWITHSTANDING THE REQUIREMENT IN SECTION 24-1-136 (11)(a)(I), THE DIRECTOR, OR THE DIRECTOR'S DESIGNEE, ON BEHALF OF THE COMMISSION, SHALL SUBMIT AN ANNUAL REPORT TO THE GENERAL ASSEMBLY ON OR BEFORE NOVEMBER 1, 2023, AND ON OR BEFORE NOVEMBER 1 OF EACH CALENDAR YEAR THEREAFTER THROUGH NOVEMBER 1, 2036, SUMMARIZING THE INFORMATION SUBMITTED BY THE ZONE ADMINISTRATOR TO THE COMMISSION EACH YEAR PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION. THE DIRECTOR, OR THE DIRECTOR'S DESIGNEE, ON BEHALF OF THE COMMISSION SHALL MAKE AN ANNUAL PRESENTATION TO THE LEGISLATIVE AUDIT COMMITTEE THAT REVIEWS AND SUMMARIZES THE INFORMATION IN THE REPORT SUBMITTED TO THE GENERAL ASSEMBLY PURSUANT TO THIS SUBSECTION (3)(c).

(d) THE STATE AUDITOR SHALL SUBMIT A REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY, AT THE DISCRETION OF THE STATE AUDITOR AND THE LEGISLATIVE AUDIT COMMITTEE, EVALUATING THE IMPLEMENTATION OF THE CHIPS ZONE PROGRAM, MAKING RECOMMENDATIONS FOR STATUTORY CHANGES, IF ANY, AND INCLUDING ANY INFORMATION REQUESTED BY THE GOVERNOR OR THE GENERAL ASSEMBLY. THE EVALUATION MUST BE BASED UPON THE DATA INCLUDED IN THE ANNUAL REPORT SUBMITTED BY THE DIRECTOR ON BEHALF OF THE COMMISSION TO THE GENERAL ASSEMBLY PURSUANT TO SUBSECTION (3)(c) OF THIS SECTION AND OBJECTIVE, VERIFIABLE DATA SUBMITTED BY THE ZONE ADMINISTRATOR AND MAINTAINED BY THE OFFICE OR OBTAINED FROM THE DEPARTMENT. THE REPORT MUST ALSO INCLUDE INFORMATION CONCERNING THE NUMBER AND AMOUNT OF TAX CREDITS CLAIMED AND ALLOWED UNDER THE PROGRAM. FOR PURPOSES OF PREPARING THE REPORT REQUIRED BY THIS SUBSECTION (3)(d), THE STATE AUDITOR SHALL HAVE ACCESS TO ALL RECORDS AND DOCUMENTS APPLICABLE TO THE PROGRAM, WHETHER MAINTAINED BY THE COMMISSION, OFFICE, LOCAL GOVERNMENTS, OR THE ZONE ADMINISTRATOR.

(e) TAXPAYERS CLAIMING CHIPS ZONE CREDITS SHALL PROVIDE INFORMATION REASONABLY REQUIRED BY THE ZONE ADMINISTRATOR, THE OFFICE, OR THE COMMISSION TO EVALUATE THE EFFECTIVENESS OF EACH ZONE IN ACCOMPLISHING THE MEASURABLE ECONOMIC DEVELOPMENT OBJECTIVES TO BE ACHIEVED IN THE ZONE.

(4) (a) SUBJECT TO THE REQUIREMENTS OF SUBSECTION (5) OF THIS SECTION, EVERY TAXPAYER THAT PERFORMS AN ACT IN A CHIPS ZONE THAT WOULD QUALIFY FOR THE INCOME TAX CREDIT UNDER SECTION 39-30-104, 39-30-105.1, OR 39-30-105.5 IF THE ACT WAS PERFORMED IN AN ENTERPRISE ZONE, CREATED

PURSUANT TO SECTION 39-30-103 OR 39-30-103.2, IS ALLOWED THE CREDIT PURSUANT TO THE CORRESPONDING SECTION AND THIS ARTICLE 36 WITH RESPECT TO THAT ACT.

(b) NOTWITHSTANDING SUBSECTION (4)(a) OF THIS SECTION OR ANY OTHER PROVISION IN THIS ARTICLE 36, A TAXPAYER MAY NOT CLAIM AN INCOME TAX CREDIT PURSUANT TO THIS ARTICLE 36 FOR PERFORMING AN ACT IN AN ENTERPRISE ZONE FOR WHICH THE TAXPAYER IS ALLOWED TO CLAIM AN INCOME TAX CREDIT PURSUANT TO ARTICLE 30 OF THIS TITLE 39.

(5) (a) BEFORE A TAXPAYER ENGAGES IN ANY ACTIVITY IN A CHIPS ZONE FOR WHICH THE TAXPAYER INTENDS TO CLAIM AN INCOME TAX CREDIT PURSUANT TO SECTION 39-30-104, 39-30-105.1, OR 39-30-105.5, AN AUTHORIZED COMPANY OFFICIAL OF THE TAXPAYER'S BUSINESS OR THE TAXPAYER WHO IS THE OWNER OF THE BUSINESS MUST SUBMIT A PRECERTIFICATION FORM TO THE CHIPS ZONE ADMINISTRATOR AS SPECIFIED IN SUBSECTION (3)(a) OF THIS SECTION IN ACCORDANCE WITH THE PRECERTIFICATION PROCESS SET FORTH IN SECTION 39-30-103 (7).

(b) (I) A TAXPAYER THAT ENGAGES IN AN ACTIVITY IN A CHIPS ZONE THAT WAS PRECERTIFIED PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION FOR WHICH THE TAXPAYER INTENDS TO CLAIM AN INCOME TAX CREDIT PURSUANT TO SECTION 39-30-104, 39-30-105.1, OR 39-30-105.5, MUST SUBMIT TO THE CHIPS ZONE ADMINISTRATOR ALL NECESSARY RECORDS AND INFORMATION TO ESTABLISH THAT THE TAXPAYER IS ENTITLED TO THE INCOME TAX CREDIT AND ALL DOCUMENTATION REQUIRED TO BE INCLUDED IN THE CHIPS ZONE ADMINISTRATOR'S ANNUAL REPORT PURSUANT TO SUBSECTIONS (3)(b)(I) THROUGH (3)(b)(VII) OF THIS SECTION.

(II) THE CHIPS ZONE ADMINISTRATOR, TAKING INTO CONSIDERATION THE ECONOMIC DEVELOPMENT OBJECTIVES ESTABLISHED PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION FOR THE ZONE IN WHICH THE TAXPAYER ENGAGED IN THE ACTIVITY TO BE CERTIFIED, SHALL APPROVE OR DENY THE TAXPAYER'S CERTIFICATION REQUEST IN WRITING WITHIN THIRTY DAYS OF ITS SUBMISSION.

(c) A TAXPAYER SHALL SUBMIT THE APPROVED CERTIFICATION FROM THE CHIPS ZONE ADMINISTRATOR, INCLUDING ALL INFORMATION REQUIRED UNDER SUBSECTIONS (5)(a) AND (5)(b) OF THIS SECTION, ALONG WITH ANY ADDITIONAL DOCUMENTATION REQUIRED UNDER SECTION 39-36-106 (1)(b) OR OTHERWISE REQUIRED BY LAW, TO THE DEPARTMENT NO LATER THAN THE DUE DATE, INCLUDING EXTENSIONS, FOR FILING THE TAXPAYER'S STATE INCOME TAX RETURN FOR THE TAX YEAR IN WHICH A TAX CREDIT ALLOWED UNDER THIS ARTICLE 36 IS CLAIMED.

(6) (a) NOTWITHSTANDING SUBSECTION (2)(b) OF THIS SECTION, ALL CHIPS ZONES APPROVED BY THE COMMISSION PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION, TERMINATE AUTOMATICALLY ON DECEMBER 31, 2040.

(b) A TAXPAYER THAT COMPLETES AN ACTIVITY IN A CHIPS ZONE THAT WAS PRECERTIFIED PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION PRIOR TO THE DATE OF TERMINATION OF THE CHIPS ZONE UNDER SUBSECTION (6)(a) OF THIS SECTION MAY SEEK CERTIFICATION TO CLAIM AN INCOME TAX CREDIT PURSUANT TO SECTION 39-30-104 OR 39-30-105.1 IN ACCORDANCE WITH THE PROCESS SET FORTH IN

SECTION 39-30-103 (6)(a). NOTHING IN THIS SUBSECTION (6)(b) AUTHORIZES THE COMMISSION TO GRANT TAX BENEFITS THAT HAVE BEEN REPEALED BY THE GENERAL ASSEMBLY OR TO GRANT TAX BENEFITS IN EXCESS OF THE LIMITS OF ESTABLISHED LAW.

39-36-105. Electronic submissions - certification data to department of revenue. (1) (a) ON OR BEFORE SEPTEMBER 1, 2023, AND ON OR BEFORE SEPTEMBER 1 OF EACH CALENDAR YEAR THEREAFTER THROUGH SEPTEMBER 1, 2035, THE DIRECTOR, OR THE DIRECTOR'S DESIGNEE, SHALL TRANSMIT TO THE DEPARTMENT DATA REGARDING INCOME TAX CREDITS ALLOWED PURSUANT TO THIS ARTICLE 36 THAT ARE CERTIFIED BY THE CHIPS ZONE ADMINISTRATOR FROM JANUARY 1 THROUGH JUNE 30 OF THE SAME CALENDAR YEAR.

(b) ON OR BEFORE MARCH 31, 2024, AND ON OR BEFORE MARCH 31 OF EACH CALENDAR YEAR THEREAFTER THROUGH MARCH 31, 2036, THE DIRECTOR, OR THE DIRECTOR'S DESIGNEE, SHALL TRANSMIT TO THE DEPARTMENT DATA REGARDING INCOME TAX CREDITS ALLOWED PURSUANT TO THIS ARTICLE 36 THAT ARE CERTIFIED BY THE CHIPS ZONE ADMINISTRATOR FROM JULY 1 THROUGH DECEMBER 31 OF THE PREVIOUS CALENDAR YEAR.

(c) THE DATA REQUIRED TO BE TRANSMITTED BY THE DIRECTOR, OR THE DIRECTOR'S DESIGNEE, TO THE DEPARTMENT UNDER SUBSECTIONS (2)(a) AND (2)(b) MUST BE IN THE FORM OF ELECTRONIC REPORTS THAT INCLUDE THE FOLLOWING INFORMATION:

(I) THE TAXPAYER'S NAME;

(II) THE TAXPAYER'S COLORADO ACCOUNT NUMBER AND FEDERAL EMPLOYER IDENTIFICATION NUMBER;

(III) THE TYPE AND AMOUNT OF EACH INCOME TAX CREDIT ALLOWED UNDER THIS ARTICLE 36 AND CERTIFIED BY THE CHIPS ZONE ADMINISTRATOR FOR THE TAXPAYER FOR THE TAX YEAR; AND

(IV) ANY ASSOCIATED TAXPAYERS' NAMES, COLORADO ACCOUNT NUMBERS, AND FEDERAL EMPLOYER IDENTIFICATION NUMBERS OR SOCIAL SECURITY NUMBERS IF THE CREDIT ALLOWED UNDER THIS ARTICLE 36 IS ALLOCATED FROM A PASS-THROUGH ENTITY TO ITS PARTNERS, SHAREHOLDERS, MEMBERS, OR OTHER CONSTITUENT TAXPAYERS.

39-36-106. Department of revenue - electronic filings - report - rules.

(1) (a) FOR THE 2023 INCOME TAX YEAR AND EACH INCOME TAX YEAR THEREAFTER THROUGH THE 2035 INCOME TAX YEAR, ANY TAXPAYER THAT CLAIMS ONE OR MORE INCOME TAX CREDITS PURSUANT TO THIS ARTICLE 36 SHALL FILE A STATE INCOME TAX RETURN WITH THE DEPARTMENT IN AN ELECTRONIC FORMAT.

(b) A TAXPAYER MUST SUBMIT THE ELECTRONIC STATE INCOME TAX RETURN REQUIRED UNDER SUBSECTION (1)(a) OF THIS SECTION TOGETHER WITH:

(I) A CERTIFICATION FORM EXECUTED BY THE CHIPS ZONE ADMINISTRATOR

PURSUANT TO SECTION 39-36-104 (5)(b) FOR EACH INCOME TAX CREDIT CLAIMED PURSUANT TO THIS ARTICLE 36;

(II) ANY WAIVER CERTIFICATE ISSUED BY THE COMMISSION TO THE TAXPAYER UNDER SECTION 39-30-104 (2)(c)(III)(B) WAIVING THE LIMIT ON THE AMOUNT OF THE TAXPAYER'S QUALIFIED INVESTMENT TAX CREDIT FOR THE INCOME TAX YEAR;

(III) A REFUND ELECTION STATEMENT ON A FORM PRESCRIBED BY THE DEPARTMENT FOR EACH TAX CREDIT CLAIMED PURSUANT TO THIS ARTICLE 36 FOR WHICH THE TAXPAYER ELECTS TO RECEIVE A REFUND PURSUANT TO SECTION 24-46-108;

(IV) A REFUND CERTIFICATE ISSUED BY THE COMMISSION TO THE TAXPAYER UNDER SECTION 24-46-108 APPROVING EACH INCOME TAX CREDIT CLAIMED PURSUANT TO THIS ARTICLE 36 FOR WHICH THE TAXPAYER ELECTS TO RECEIVE A REFUND; AND

(V) A CARRYFORWARD SCHEDULE INCLUDING THE TYPE AND AMOUNT OF EACH INCOME TAX CREDIT CLAIMED PURSUANT TO THIS ARTICLE 36 THAT THE TAXPAYER INTENDS TO USE IN A SUBSEQUENT TAX YEAR.

(2) THE DOCUMENTS REQUIRED UNDER SUBSECTION (1)(b) OF THIS SECTION MUST BE FILED WITH THE DEPARTMENT NOT LATER THAN THE DUE DATE, INCLUDING EXTENSIONS, FOR FILING THE TAXPAYER'S STATE INCOME TAX RETURN FOR THE INCOME TAX YEAR IN WHICH THE INCOME TAX CREDITS ARE CLAIMED PURSUANT TO THIS ARTICLE 36.

(3) (a) FOR THE 2023 INCOME TAX YEAR AND EACH INCOME TAX YEAR THEREAFTER THROUGH THE 2035 INCOME TAX YEAR, THE DEPARTMENT SHALL AGGREGATE AND REPORT DATA ON ALL OF THE INCOME TAX CREDITS THAT ARE CLAIMED PURSUANT TO THIS ARTICLE 36 FOR EACH INCOME TAX YEAR. THE DEPARTMENT SHALL CATEGORIZE SUCH AGGREGATED DATA BY THE DATE THAT THE INCOME TAX CREDIT WAS CERTIFIED BY THE CHIPS ZONE ADMINISTRATOR, THE SPECIFIC INCOME TAX CREDIT ALLOWED PURSUANT TO THIS ARTICLE 36 THAT EACH TAXPAYER WAS AUTHORIZED TO CLAIM, AND THE TOTAL AMOUNT OF THE INCOME TAX CREDITS CLAIMED FOR EACH INCOME TAX CREDIT ALLOWED PURSUANT TO THIS ARTICLE 36.

(b) THE DEPARTMENT SHALL SUBMIT THE DATA COLLECTED PURSUANT TO SUBSECTION (1)(b)(V) OF THIS SECTION AND THE DATA AGGREGATED PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION TO THE OFFICE ON AUGUST 1, 2023, AND ON AUGUST 1 EACH YEAR THEREAFTER THROUGH AUGUST 1, 2036.

(4) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT, IN CONSULTATION WITH THE COMMISSION AND THE OFFICE, MAY PROMULGATE RULES AS NECESSARY FOR THE DEPARTMENT TO ADMINISTER AND ENFORCE ANY PROVISIONS OF THIS ARTICLE 36.

39-36-107. Repeal of article. THIS ARTICLE 36 IS REPEALED, EFFECTIVE JANUARY 1, 2041.

SECTION 8. In Colorado Revised Statutes, 39-22-531, **amend** (6); and **add** (3)(a)(I)(D) as follows:

39-22-531. Colorado job growth incentive tax credit - rules - definitions - repeal.

(3) (a) (I) (D) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2024, BUT PRIOR TO JANUARY 1, 2029, IF THE PROJECT CONSTITUTES ADVANCED MANUFACTURING, AS DEFINED IN SECTION 24-46-108 (1)(a), OR SEMICONDUCTOR MANUFACTURING, AS DEFINED IN SECTION 24-46-108 (1)(i), THE PROJECT MUST BRING A NET JOB GROWTH OF AT LEAST TWENTY JOBS TO THE STATE WITH AN AVERAGE YEARLY WAGE OF SEVENTY-FIVE PERCENT OR SUCH GREATER AMOUNT OF THE AVERAGE YEARLY WAGE OF THE COUNTY IN WHICH THE TAXPAYER IS LOCATED, AS THE COMMISSION DEEMS PROPER UNDER ITS DISCRETION.

(6) Except as provided in ~~sections 24-46-104.3 and 24-46-107~~ SECTIONS 24-46-104.3, 24-46-107, AND 24-46-108, if the amount of the credit allowed in this section exceeds the amount of income taxes otherwise due on the taxpayer's income in the income tax year for which the credit is being claimed, the amount of the credit not used as an offset against income taxes in the current income tax year AND NOT USED TO CLAIM A REFUND PURSUANT TO SECTION 24-46-108 may be carried forward and used as a credit against subsequent years' income tax liability for a period not to exceed ten years and shall be applied first to the earliest income tax years possible. Any credit remaining after said period shall not be refunded or credited to the taxpayer.

SECTION 9. Appropriation. (1) For the 2023-24 state fiscal year, \$117,583 is appropriated to the office of the governor for use by economic development programs. This appropriation is from the general fund and is based on an assumption that the division will require an additional 1.3 FTE. To implement this act, the department may use this appropriation for the economic development commission - general economic incentives and marketing.

(2) For the 2023-24 state fiscal year, \$300,108 is appropriated to the department of revenue. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) \$103,381 for use by the executive director's office for personal services related to administration and support, which amount is based on an assumption that the office will require an additional 1.4 FTE;

(b) \$8,560 for use by the executive director's office for operating expenses related to administration and support;

(c) \$155,525 for tax administration IT system (GenTax) support; and

(d) \$32,642 for the purchase of document management services.

(3) For the 2023-24 state fiscal year, \$32,642 is appropriated to the department of personnel. This appropriation is from reappropriated funds received from the department of revenue under subsection (2)(d) of this section. To implement this

act, the department of personnel may use this appropriation to provide document management services for the department of revenue.

SECTION 10. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: May 20, 2023