

CHAPTER 191

**AGRICULTURE**

**HOUSE BILL 01-1086**

BY REPRESENTATIVE(S) Alexander, Coleman, Hodge, Johnson, Snook, Webster, Grossman, Larson, Lawrence, Madden, Plant, Rippey, Romanoff, Tochtrop, Veiga, and Young;  
also SENATOR(S) Dyer (Durango), Chlouber, Gordon, Hagedorn, Hanna, Hernandez, Phillips, Reeves, Taylor, and Teck.

**AN ACT**

CONCERNING THE CREATION OF THE AGRICULTURE VALUE-ADDED DEVELOPMENT FUND PROGRAM, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

**SECTION 1.** 24-1-123, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**24-1-123. Department of agriculture - creation.** (7) THE COLORADO AGRICULTURAL VALUE-ADDED DEVELOPMENT BOARD, CREATED IN SECTION 35-75-203, C.R.S., SHALL EXERCISE ITS POWERS AND PERFORM ITS DUTIES AND FUNCTIONS AS SPECIFIED BY LAW UNDER THE DEPARTMENT AS IF THE SAME WERE TRANSFERRED TO THE DEPARTMENT BY A **TYPE 1** TRANSFER.

**SECTION 2.** Article 75 of title 35, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

**PART 2  
AGRICULTURE VALUE-ADDED DEVELOPMENT  
FUND PROGRAM**

**35-75-201. Legislative declaration - purpose of part.** (1) THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT, DUE TO CURRENT ECONOMIC CONDITIONS THROUGHOUT RURAL COLORADO, IT IS IN THE BEST INTERESTS OF THE PEOPLE OF THIS STATE THAT MEASURES BE TAKEN TO ENCOURAGE, PROMOTE, AND STIMULATE AGRICULTURALLY BASED ECONOMIC DEVELOPMENT AND EMPLOYMENT IN RURAL COLORADO. TO THAT END, IT IS THE PURPOSE OF THIS PART 2 TO FACILITATE THE PROCESSING OF AGRICULTURAL PRODUCTS AND COMMODITIES WITHIN THIS STATE

---

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

TO FURTHER STIMULATE THE ECONOMY AND EMPLOYMENT IN RURAL COLORADO AND TO SERVE AS A RESOURCE FOR THE STATE'S AGRICULTURAL INDUSTRY.

(2) THE GENERAL ASSEMBLY FURTHER FINDS, DETERMINES, AND DECLARES THAT THE PUBLIC PURPOSE SERVED BY THE TAX CREDITS, GRANTS, LOANS AND LOAN GUARANTEES, AND EQUITY INVESTMENTS AUTHORIZED BY THIS PART 2 AND BY SECTIONS 39-22-527 AND 39-22-528, C.R.S., PREPONDERATES OVER ANY INDIVIDUAL INTERESTS INCIDENTALY SERVED THEREBY.

**35-75-202. Definitions.** AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BOARD" MEANS THE COLORADO AGRICULTURAL VALUE-ADDED DEVELOPMENT BOARD CREATED IN SECTION 35-75-203.

(2) "DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE.

(3) "DEVELOPMENT FACILITY" MEANS A COLORADO FACILITY THAT EITHER PRODUCES GOODS FROM AN AGRICULTURAL COMMODITY OR USES A PROCESS TO PRODUCE GOODS FROM AN AGRICULTURAL PRODUCT.

(4) "ELIGIBLE AGRICULTURAL VALUE-ADDED COOPERATIVE" MEANS A COOPERATIVE ASSOCIATION FORMED PURSUANT TO ARTICLE 55 OR 56 OF TITLE 7, C.R.S., FOR THE PURPOSE OF OPERATING A DEVELOPMENT FACILITY AND THAT MEETS THE ELIGIBILITY CRITERIA ESTABLISHED BY THE BOARD PURSUANT TO SECTION 35-75-204 (2).

(5) "FUND" MEANS THE AGRICULTURE VALUE-ADDED CASH FUND CREATED IN SECTION 35-75-205 (1).

(6) "MEMBER" MEANS A RESIDENT INDIVIDUAL OR A DOMESTIC OR FOREIGN CORPORATION SUBJECT TO THE PROVISIONS OF PART 3 OF ARTICLE 22 OF TITLE 39, C.R.S.

(7) "PARTICIPANT" MEANS A RESIDENT INDIVIDUAL OR A DOMESTIC OR FOREIGN CORPORATION SUBJECT TO THE PROVISIONS OF PART 3 OF ARTICLE 22 OF TITLE 39, C.R.S., THAT PURCHASES TAX CREDITS FROM, OR CONTRIBUTES CASH FUNDS TO, THE BOARD.

**35-75-203. Colorado agricultural value-added development board - creation - members.** (1) THERE IS HEREBY CREATED, WITHIN THE DEPARTMENT, THE COLORADO AGRICULTURAL VALUE-ADDED DEVELOPMENT BOARD FOR THE PURPOSE OF ENCOURAGING AND PROMOTING AGRICULTURAL BUSINESS PROJECTS THAT ADD VALUE TO AGRICULTURAL PRODUCTS AND AID THE ECONOMIES OF RURAL COMMUNITIES.

(2) THE BOARD SHALL CONSIST OF SEVEN MEMBERS OF THE AUTHORITY. THE COMMISSIONER OF AGRICULTURE SHALL BE AN EX OFFICIO, NONVOTING MEMBER OF THE BOARD.

(3) MEMBERS OF THE BOARD SHALL RECEIVE NO COMPENSATION FOR THEIR

SERVICE ON THE BOARD, BUT SHALL BE ENTITLED TO REIMBURSEMENT FOR ACTUAL AND NECESSARY TRAVEL AND OTHER ACTUAL EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES. THE BOARD SHALL ADOPT UNIFORM AND REASONABLE RULES GOVERNING THE INCURRING AND PAYING OF SUCH EXPENSES.

**35-75-204. Duties of the board - agriculture value-added grants, loans and loan guarantees, equity investments, and tax credits.** (1) THE BOARD HAS THE POWER TO MAKE GRANTS, LOANS AND LOAN GUARANTEES, AND EQUITY INVESTMENTS TO ELIGIBLE AGRICULTURAL VALUE-ADDED COOPERATIVES, AS DEFINED IN SECTION 35-75-202 (3), AND TO OFFER TAX CREDITS TO SUCH COOPERATIVES PURSUANT TO SECTION 39-22-527, C.R.S., FOR NEW OR ONGOING RURAL AGRICULTURAL BUSINESS PROJECTS THAT ADD VALUE TO COLORADO AGRICULTURAL PRODUCTS AND AID THE ECONOMY OF A RURAL COLORADO COMMUNITY. SUBJECT TO THE ANNUAL DOLLAR LIMITATIONS STATED IN SECTIONS 39-22-527 AND 39-22-528, C.R.S., THE BOARD ALSO HAS THE POWER TO FUND MARKET PROMOTION ACTIVITIES OF THE DEPARTMENT PURSUANT TO SECTION 35-75-205 (2) (f) AND TO OFFER TAX CREDITS TO PARTICIPANTS AND TO AGRICULTURAL BUSINESSES OTHER THAN ELIGIBLE AGRICULTURAL VALUE-ADDED COOPERATIVES SO LONG AS SUCH AGRICULTURAL BUSINESSES ARE LOCATED SOLELY IN COLORADO AND COMPLY WITH THE CRITERIA ESTABLISHED BY THE BOARD PURSUANT TO SUBSECTION (2) OF THIS SECTION, ADD VALUE TO AGRICULTURAL PRODUCTS, AND AID THE ECONOMY OF A RURAL COMMUNITY.

(2) THE BOARD SHALL EMPLOY THE FOLLOWING CRITERIA IN DETERMINING WHETHER TO AWARD AN AGRICULTURE VALUE-ADDED GRANT, LOAN, LOAN GUARANTEE, OR TAX CREDIT:

(a) THE AMOUNT OF THE CASH FUNDS INVESTED IN THE RURAL AGRICULTURAL PROJECT FROM PRIVATE SOURCES SHALL BE AT LEAST FIVE THOUSAND DOLLARS AND, OF THE TOTAL AMOUNT OF SUCH CASH FUNDS, AT LEAST FIFTY PERCENT SHALL BE FROM PRIVATE INDIVIDUALS OR ENTITIES WHO RESIDE IN COLORADO MORE THAN HALF OF EACH YEAR OR ARE DOMICILED IN COLORADO;

(b) THE EXPERIENCE, PROFESSIONAL QUALIFICATIONS, AND BUSINESS BACKGROUND OF THE DIRECTORS AND CONSULTANTS CHOSEN TO LEAD THE AGRICULTURAL BUSINESS PROJECT SHALL BE SUCH AS TO GIVE THE PROJECT A REASONABLE CHANCE OF SUCCESS UNDER THEIR LEADERSHIP;

(c) THE CONTEMPLATED SCHEDULE AND PHASING OF THE PROJECT, WHETHER ON AN ANNUAL OR MULTI-YEAR BASIS, SHALL BE SUCH AS TO GIVE THE PROJECT A REASONABLE CHANCE OF SUCCESS WITHIN THREE YEARS AT A CONSTANT OR DECLINING RATE OF SUPPORT FROM THE BOARD IN THE FORM OF GRANTS, LOANS, OR TAX CREDITS, OR A COMBINATION THEREOF; AND

(d) THE ECONOMIC IMPACT ON OTHER LOCAL BUSINESSES.

(2.5) IN ADDITION TO THE CRITERIA LISTED IN SUBSECTION (2) OF THIS SECTION, THE BOARD MAY ALSO CONSIDER:

(a) THE AGRICULTURAL BUSINESS PROJECT'S PLANNING FOR LONG-TERM SUCCESS THROUGH FEASIBILITY STUDIES, MARKETING PLANS, AND BUSINESS PLANS;

(b) THE AGRICULTURAL BUSINESS PROJECT'S NET ECONOMIC BENEFIT TO THE STATE; AND

(c) THE AGRICULTURAL BUSINESS PROJECT'S NET ECONOMIC IMPACT ON OTHER LOCAL BUSINESSES.

(3) THE BOARD MAY REJECT ANY APPLICATION FOR GRANTS, LOANS AND LOAN GUARANTEES, EQUITY INVESTMENTS, OR TAX CREDITS PURSUANT TO THIS PART 2.

(4) (a) THE BOARD SHALL REQUIRE A FEASIBILITY STUDY OF A MEMBER'S RURAL AGRICULTURAL BUSINESS PROJECT CONCEPT TO BE PERFORMED BEFORE AWARDING A GRANT, LOAN, OR TAX CREDIT.

(b) UPON A DETERMINATION BY THE BOARD THAT THE PROJECT CONCEPT IS FEASIBLE, THE BOARD MAY CAUSE A MARKETING STUDY TO BE PERFORMED. SUCH MARKETING STUDY SHALL BE DESIGNED TO DETERMINE IF THE PROJECT CONCEPT MAY BE OPERATED PROFITABLY.

(c) UPON A DETERMINATION BY THE BOARD THAT THE PROJECT CONCEPT MAY BE OPERATED PROFITABLY, THE BOARD MAY PROVIDE FOR LEGAL ASSISTANCE TO SET UP THE PROJECT. SUCH LEGAL ASSISTANCE SHALL INCLUDE, BUT NOT BE LIMITED TO, PROVIDING ADVICE AND ASSISTANCE ON THE FORM OF BUSINESS ENTITY, THE AVAILABILITY OF TAX CREDITS, AND OTHER ASSISTANCE FOR WHICH THE MEMBER MAY QUALIFY AS WELL AS HELPING THE MEMBER APPLY FOR SUCH ASSISTANCE.

(5) THE BOARD MAY PROVIDE OR FACILITATE GRANTS, LOANS OR LOAN GUARANTEES, EQUITY INVESTMENTS, OR TAX CREDITS FOR THE MEMBER INCLUDING, BUT NOT LIMITED TO, LOANS FROM THE UNITED STATES DEPARTMENT OF AGRICULTURE RURAL DEVELOPMENT PROGRAM, SUBJECT TO AVAILABILITY. SUCH FINANCIAL ASSISTANCE SHALL ONLY BE PROVIDED TO FEASIBLE PROJECT CONCEPTS THAT MAY BE OPERATED PROFITABLY, AND THE AMOUNT OF SUCH FINANCIAL ASSISTANCE SHALL BE THE LEAST AMOUNT NECESSARY TO CAUSE THE PROJECT TO OCCUR, AS DETERMINED BY THE BOARD. THE BOARD MAY STRUCTURE THE FINANCIAL ASSISTANCE IN A WAY THAT CAUSES THE PROJECT TO OCCUR AND ALSO PROVIDES FOR A COMPENSATORY RETURN ON INVESTMENT OR LOAN PAYMENT TO THE BOARD, BASED UPON THE RISK OF THE PROJECT CONCEPT.

(6) THE BOARD MAY ALSO PROVIDE FOR CONSULTING SERVICES FOR THE BUILDING AND OPERATION OF THE PROJECT. SUCH CONSULTING SERVICES MAY BE PROVIDED THROUGH STATE EMPLOYEES OR THROUGH CONTRACTS WITH PRIVATE ENTITIES.

(7) THE BOARD MAY CHARGE THE MEMBER A REASONABLE FEE FOR PROCESSING AN APPLICATION FOR FINANCIAL ASSISTANCE OR FOR OTHER SERVICES PERFORMED BY THE BOARD OR ITS STAFF.

(8) THE BOARD MAY CONSULT WITH OTHER STATE OR FEDERAL AGENCIES AS NECESSARY TO PERFORM ITS DUTIES PURSUANT TO THIS PART 2.

**35-75-205. Tax credits, grants, loans and loan guarantees, and equity investments - agriculture value-added cash fund - created.** (1) THE MONEYS DERIVED FROM PURCHASES OF TAX CREDITS FROM THE BOARD BY PARTICIPANTS IN

ACCORDANCE WITH SECTION 39-22-528, C.R.S., AND MONEYS RECEIVED BY THE BOARD FROM PUBLIC OR PRIVATE GIFTS, GRANTS, OR DONATIONS OR FROM ANY OTHER SOURCE SHALL BE FORWARDED TO THE STATE TREASURER AND SHALL BE CREDITED TO THE AGRICULTURE VALUE-ADDED CASH FUND, WHICH FUND IS HEREBY CREATED. MONEYS IN THE FUND ARE CONTINUOUSLY APPROPRIATED TO THE BOARD AND SHALL BE USED FOR FINANCIAL OR TECHNICAL ASSISTANCE FOR THE PURPOSE OF PREPARING CRITERIA AND REVIEWING APPLICATIONS PROVIDED IN SECTION 35-75-204, TO RURAL AGRICULTURAL PROJECTS AND PROJECT CONCEPTS AS APPROVED BY THE BOARD. ALL INTEREST EARNED ON THE INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. THE BOARD MAY PROVIDE OR FACILITATE TAX CREDITS, GRANTS, LOANS AND LOAN GUARANTEES, AND EQUITY INVESTMENTS FOR RURAL AGRICULTURAL PROJECTS OR PROJECT CONCEPTS; EXCEPT THAT SUCH TAX CREDITS, GRANTS, LOANS AND LOAN GUARANTEES, AND EQUITY INVESTMENTS SHALL BE LIMITED TO TWO MILLION DOLLARS PER PROJECT. TAX CREDITS, GRANTS, LOANS AND LOAN GUARANTEES, AND EQUITY INVESTMENTS MAY ONLY BE PROVIDED TO FEASIBLE PROJECTS AND FOR AN AMOUNT THAT IS THE LEAST AMOUNT NECESSARY TO CAUSE THE PROJECT TO OCCUR, AS DETERMINED BY THE BOARD. THE BOARD MAY STRUCTURE THE GRANTS, LOANS AND LOAN GUARANTEES, AND EQUITY INVESTMENTS IN A WAY THAT FACILITATES THE PROJECT AND ALSO PROVIDES FOR A COMPENSATORY RETURN ON INVESTMENT OR LOAN PAYMENT TO THE BOARD BASED ON THE RISK OF THE PROJECT. ANY MONEYS CREDITED TO THE AGRICULTURE VALUE-ADDED CASH FUND AND UNEXPENDED AT THE END OF ANY GIVEN FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND.

(2) (a) THE BOARD, UPON APPLICATION, MAY:

(I) ISSUE CERTIFICATES OF GUARANTY COVERING A FIRST LOSS GUARANTEE UP TO, BUT NOT MORE THAN, TWENTY-FIVE PERCENT OF THE LOAN ON A DECLINING PRINCIPAL BASIS FOR LOANS TO ELIGIBLE BORROWERS, EXECUTING A NOTE OR OTHER EVIDENCE OF A LOAN MADE FOR THE PURPOSE OF A LOAN MADE PURSUANT TO THIS PART 2, BUT NOT TO EXCEED THE AMOUNT OF TWO HUNDRED FIFTY THOUSAND DOLLARS FOR ANY ELIGIBLE BORROWER; AND

(II) PAY FROM THE FUND TO AN ELIGIBLE LENDER UP TO TWENTY-FIVE PERCENT OF THE AMOUNT, ON A DECLINING PRINCIPAL BASIS, OF ANY LOSS ON ANY GUARANTEED LOAN MADE PURSUANT TO THE PROVISIONS OF THIS ARTICLE IN THE EVENT OF DEFAULT ON THE LOAN. UPON PAYMENT ON THE GUARANTEE, THE BOARD SHALL BE SUBROGATED TO ALL THE RIGHTS OF THE ELIGIBLE LENDER.

(b) THE BOARD SHALL CHARGE FOR EACH LOAN MADE PURSUANT TO THIS PART 2 A ONE-TIME PARTICIPATION FEE OF ONE PERCENT OF THE LOAN AMOUNT, WHICH SHALL BE COLLECTED BY THE ELIGIBLE LENDER AT THE TIME OF CLOSING AND PAID TO THE BOARD. IN ADDITION, THE BOARD MAY CHARGE A SPECIAL LOAN GUARANTEE FEE OF UP TO ONE PERCENT PER ANNUM OF THE OUTSTANDING PRINCIPAL, WHICH FEE SHALL BE COLLECTED FROM THE ELIGIBLE BORROWER BY THE ELIGIBLE LENDER AND PAID TO THE BOARD. MONEYS COLLECTED SHALL BE DEPOSITED IN THE AGRICULTURE VALUE-ADDED CASH FUND.

(c) MONEYS PAID TO SATISFY A DEFAULTED LOAN MADE PURSUANT TO THIS PART 2 SHALL ONLY BE PAID OUT OF THE AGRICULTURE VALUE-ADDED CASH FUND.

(d) THE TOTAL OUTSTANDING LOANS MADE PURSUANT TO THIS PART 2 SHALL AT NO TIME EXCEED AN AMOUNT WHICH, ACCORDING TO SOUND ACTUARIAL JUDGMENT, WOULD ALLOW IMMEDIATE REDEMPTION OF AT LEAST FORTY PERCENT OF THE OUTSTANDING LOANS GUARANTEED BY THE FUND AT ANY ONE TIME.

(e) THE BOARD MAY MAKE FINANCIAL ARRANGEMENTS FOR AN ELIGIBLE BUSINESS TO PURCHASE AN EXISTING, ESTABLISHED DEVELOPMENT FACILITY.

(f) THE DEPARTMENT SHALL, AS PART OF THE ADMINISTRATION OF THE AGRICULTURE VALUE-ADDED DEVELOPMENT FUND PROGRAM CREATED IN THIS PART 2, ESTABLISH MARKET PROMOTION ACTIVITIES AND MAY APPLY TO THE BOARD TO SUPPORT SUCH ACTIVITIES THROUGH DISBURSEMENTS FROM THE FUND.

(3) IN ANY GIVEN YEAR, AT LEAST TEN PERCENT OF THE FUNDS GRANTED TO RURAL AGRICULTURAL PROJECTS AND PROJECT CONCEPTS SHALL BE AWARDED IN RESPONSE TO GRANT REQUESTS OF FIFTY THOUSAND DOLLARS OR LESS. NO SINGLE RURAL AGRICULTURAL PROJECT OR PROJECT CONCEPT SHALL RECEIVE MORE THAN TWO HUNDRED THOUSAND DOLLARS IN GRANT AWARDS FROM THE BOARD.

**SECTION 3.** Part 5 of article 22 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

**39-22-527. Agricultural value-added tax credit.** (1) AS USED IN THIS SECTION, "BOARD" MEANS THE COLORADO AGRICULTURAL VALUE-ADDED DEVELOPMENT BOARD CREATED IN SECTION 35-75-203, C.R.S.

(2) SUBJECT TO THE PROVISIONS OF THIS SECTION, FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2001, IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE CONTROLLER CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR THE STATE FISCAL YEAR ENDING IN THAT INCOME TAX YEAR EXCEEDS THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION AND THE VOTERS STATEWIDE EITHER HAVE NOT AUTHORIZED THE STATE TO RETAIN AND SPEND ALL OF THE EXCESS STATE REVENUES OR HAVE AUTHORIZED THE STATE TO RETAIN AND SPEND ONLY A PORTION OF THE EXCESS STATE REVENUES FOR THAT FISCAL YEAR, THERE SHALL BE ALLOWED TO EACH MEMBER, AS DEFINED IN SECTION 35-75-202 (5), C.R.S., WHO HAS HAD AN APPLICATION FOR A TAX CREDIT APPROVED IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION, A CREDIT WITH RESPECT TO THE INCOME TAXES IMPOSED BY THIS ARTICLE IN AN AMOUNT EQUAL TO THE LESSER OF FIFTY PERCENT OF SUCH MEMBER'S INVESTMENT OR FIFTEEN THOUSAND DOLLARS; EXCEPT THAT THE TOTAL AMOUNT OF TAX CREDITS ALLOWED TO MEMBERS WITH RESPECT TO ANY ONE PROJECT SHALL NOT EXCEED ONE MILLION FIVE HUNDRED THOUSAND DOLLARS.

(3) TO QUALIFY FOR THE CREDIT PROVIDED BY THIS SECTION, A MEMBER SHALL SUBMIT A TAX CREDIT CERTIFICATE WITH EACH INCOME TAX RETURN. APPLICATION FORMS FOR TAX CREDIT CERTIFICATES SHALL BE OBTAINED FROM THE BOARD. UPON RECEIVING A PROPERLY COMPLETED APPLICATION FORM FROM A MEMBER, THE BOARD SHALL DETERMINE WHETHER THE MEMBER HAS SATISFIED THE REQUIREMENTS FOR ALLOWANCE OF THE CREDIT AS SPECIFIED IN SECTION 35-75-204, C.R.S. IF THE MEMBER HAS SATISFIED SAID REQUIREMENTS AND THE BOARD HAS NOT ALREADY

ISSUED TAX CREDIT CERTIFICATES IN THE MAXIMUM AMOUNT PERMITTED FOR THE FISCAL YEAR IN WHICH THE APPLICATION WAS FILED, THE BOARD SHALL ISSUE A TAX CREDIT CERTIFICATE IN THE APPROPRIATE AMOUNT AND SHALL NOTIFY THE EXECUTIVE DIRECTOR OF THE AMOUNT OF THE TAX CREDIT AND THE IDENTITY OF THE MEMBER TO WHOM THE TAX CREDIT WAS ISSUED. THE MAXIMUM AGGREGATE VALUE OF TAX CREDIT CERTIFICATES THAT THE BOARD MAY ISSUE PURSUANT TO THIS SECTION IN ANY GIVEN FISCAL YEAR IS FOUR MILLION DOLLARS.

(4) THE BOARD SHALL CERTIFY AT LEAST TEN PERCENT OF THE TAX CREDITS AUTHORIZED BY THIS SECTION IN ANY FISCAL YEAR IN CONNECTION WITH QUALIFIED PROJECTS HAVING CAPITAL COSTS OF NO MORE THAN ONE MILLION DOLLARS.

(5) IF MEMBERS APPLYING FOR TAX CREDITS AUTHORIZED BY THIS SECTION IN CONNECTION WITH ANY ONE PROJECT WOULD BE ELIGIBLE FOR TAX CREDITS IN EXCESS OF ONE MILLION FIVE HUNDRED THOUSAND DOLLARS, SUCH TAX CREDITS SHALL BE PRORATED AMONG THE MEMBERS ON A PERCENT-OF-INVESTMENT BASIS, NOT TO EXCEED THE MAXIMUM ALLOWED PER MEMBER.

(6) BEGINNING MARCH 1, 2002, AND ON MARCH 1 OF EACH YEAR THEREAFTER, THE BOARD SHALL DETERMINE THE TOTAL AMOUNT OF TAX CREDITS TO BE ISSUED TO AGRICULTURAL VALUE-ADDED COOPERATIVES PURSUANT TO THIS SECTION IN THAT FISCAL YEAR. IF THE BOARD DETERMINES THAT LESS THAN FOUR MILLION DOLLARS' WORTH OF TAX CREDITS WILL BE ISSUED TO AGRICULTURAL VALUE-ADDED COOPERATIVES PURSUANT TO THIS SECTION IN THAT FISCAL YEAR, THE BOARD MAY ISSUE THE REMAINING AUTHORIZED TAX CREDITS TO PARTICIPANTS PURSUANT TO SECTION 39-22-528.

(7) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT, IN ORDER FOR ALL GEOGRAPHIC AREAS OF COLORADO TO HAVE THE OPPORTUNITY FOR ECONOMIC DEVELOPMENT, IT IS VITAL THAT A SOURCE OF FUNDING BE CREATED FOR RURAL BUSINESS ENTERPRISES. THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT CREATING AN INCOME TAX CREDIT FOR INVESTMENT IN RURAL BUSINESS ENTERPRISES IS A REASONABLE METHOD OF REFUNDING A PORTION OF THE EXCESS STATE REVENUES REQUIRED TO BE REFUNDED IN ACCORDANCE WITH SECTION 20 (7) (d) OF ARTICLE X OF THE STATE CONSTITUTION.

(8) IF THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THE PROVISIONS OF THIS SECTION EXCEEDS THE AMOUNT OF THE 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 SAID INCOME TAX YEAR SHALL NOT BE CARRIED FORWARD AND USED AS A CREDIT AGAINST THE TAXPAYER'S SUBSEQUENT YEARS' INCOME TAX LIABILITY.

(9) (a) IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE CONTROLLER CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR THE STATE FISCAL YEAR COMMENCING ON JULY 1, 2000, EXCEEDS THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20(7) (a) OF ARTICLE X OF THE STATE CONSTITUTION FOR THAT FISCAL YEAR BY LESS THAN FOUR HUNDRED MILLION DOLLARS, THEN THE CREDIT AUTHORIZED BY SUBSECTION (2) OF THIS SECTION SHALL NOT BE ALLOWED FOR THE INCOME TAX YEAR COMMENCING ON JANUARY 1, 2001.

(b) IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE CONTROLLER CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR ANY STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2001, EXCEEDS THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION FOR THAT FISCAL YEAR BY LESS THAN FOUR HUNDRED MILLION DOLLARS, AS ADJUSTED PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (9), THEN THE CREDIT AUTHORIZED BY SUBSECTION (2) OF THIS SECTION SHALL NOT BE ALLOWED FOR THE INCOME TAX YEAR IN WHICH SAID STATE FISCAL YEAR ENDED.

(c) NO LATER THAN OCTOBER 1 OF ANY GIVEN CALENDAR YEAR COMMENCING ON OR AFTER JANUARY 1, 2002, THE EXECUTIVE DIRECTOR SHALL ANNUALLY ADJUST THE DOLLAR AMOUNT SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (9) TO REFLECT THE RATE OF GROWTH OF COLORADO PERSONAL INCOME FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH SUCH ADJUSTMENT IS MADE. FOR PURPOSES OF THIS PARAGRAPH (c), "THE RATE OF GROWTH OF COLORADO PERSONAL INCOME" MEANS THE PERCENTAGE CHANGE BETWEEN THE MOST RECENT PUBLISHED ANNUAL ESTIMATE OF TOTAL PERSONAL INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY REPORTED BY THE BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES DEPARTMENT OF COMMERCE FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH THE ADJUSTMENT IS MADE AND THE MOST RECENT PUBLISHED ANNUAL ESTIMATE OF TOTAL PERSONAL INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY REPORTED BY THE BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES DEPARTMENT OF COMMERCE FOR THE CALENDAR YEAR PRIOR TO THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH THE ADJUSTMENT IS MADE.

(d) UPON CALCULATING THE ADJUSTMENT OF SAID DOLLAR AMOUNT IN ACCORDANCE WITH PARAGRAPH (c) OF THIS SUBSECTION (9), THE EXECUTIVE DIRECTOR SHALL NOTIFY IN WRITING THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL CREATED PURSUANT TO SECTION 2-3-301 (1), C.R.S., OF THE ADJUSTED DOLLAR AMOUNT AND THE BASIS FOR THE ADJUSTMENT. SUCH WRITTEN NOTIFICATION SHALL BE GIVEN WITHIN FIVE WORKING DAYS AFTER SUCH CALCULATION IS COMPLETED, BUT SUCH WRITTEN NOTIFICATION SHALL BE GIVEN NO LATER THAN OCTOBER 1 OF THE CALENDAR YEAR.

(e) IT IS THE FUNCTION OF THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL TO REVIEW AND APPROVE OR DISAPPROVE SUCH ADJUSTMENT OF SAID DOLLAR AMOUNT WITHIN TWENTY DAYS AFTER RECEIPT OF SUCH WRITTEN NOTIFICATION FROM THE EXECUTIVE DIRECTOR. ANY ADJUSTMENT THAT IS NOT APPROVED OR DISAPPROVED BY THE EXECUTIVE COMMITTEE WITHIN SAID TWENTY DAYS SHALL BE AUTOMATICALLY APPROVED; EXCEPT THAT, IF WITHIN SAID TWENTY DAYS THE EXECUTIVE COMMITTEE SCHEDULES A HEARING ON SUCH ADJUSTMENT, SUCH AUTOMATIC APPROVAL SHALL NOT OCCUR UNLESS THE EXECUTIVE COMMITTEE DOES NOT APPROVE OR DISAPPROVE SUCH ADJUSTMENT AFTER THE CONCLUSION OF SUCH HEARING. ANY HEARING CONDUCTED BY THE EXECUTIVE COMMITTEE PURSUANT TO THIS PARAGRAPH (e) SHALL BE CONCLUDED NO LATER THAN TWENTY-FIVE DAYS AFTER RECEIPT OF SUCH WRITTEN NOTIFICATION FROM THE EXECUTIVE DIRECTOR.

(f) IF THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL DISAPPROVES ANY

ADJUSTMENT OF SAID DOLLAR AMOUNT CALCULATED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE PURSUANT TO THIS SUBSECTION (9), THE EXECUTIVE COMMITTEE SHALL SPECIFY SUCH ADJUSTED DOLLAR AMOUNT TO BE UTILIZED BY THE EXECUTIVE DIRECTOR. ANY ADJUSTED DOLLAR AMOUNT SPECIFIED BY THE EXECUTIVE COMMITTEE PURSUANT TO THIS PARAGRAPH (f) SHALL BE CALCULATED IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH (c) OF THIS SUBSECTION (9).

(g) FOR THE PURPOSE OF DETERMINING WHETHER THE STATE INCOME TAX CREDIT AUTHORIZED BY THIS SECTION IS TO BE ALLOWED IN ANY GIVEN TAX YEAR, THE EXECUTIVE DIRECTOR SHALL NOT UTILIZE ANY ADJUSTED DOLLAR AMOUNT THAT HAS NOT BEEN APPROVED PURSUANT TO PARAGRAPH (e) OF THIS SUBSECTION (9) OR OTHERWISE SPECIFIED PURSUANT TO PARAGRAPH (f) OF THIS SUBSECTION (9).

(10) IF ONE OR MORE BALLOT QUESTIONS ARE SUBMITTED TO THE VOTERS AT A STATEWIDE ELECTION TO BE HELD IN NOVEMBER OF ANY CALENDAR YEAR COMMENCING ON OR AFTER JANUARY 1, 2001, THAT SEEK AUTHORIZATION FOR THE STATE TO RETAIN AND SPEND ALL OR ANY PORTION OF THE AMOUNT OF EXCESS STATE REVENUES FOR THE STATE FISCAL YEAR ENDING DURING SAID CALENDAR YEAR, THE EXECUTIVE DIRECTOR SHALL NOT DETERMINE WHETHER THE CREDIT AUTHORIZED BY SUBSECTION (2) OF THIS SECTION SHALL BE ALLOWED AND SHALL NOT PROMULGATE RULES CONCERNING THE ALLOWANCE OF SAID CREDIT UNTIL THE IMPACT OF THE RESULTS OF SAID ELECTION ON THE AMOUNT OF THE EXCESS STATE REVENUES TO BE REFUNDED IS ASCERTAINED.

(11) IN ADDITION TO ANY OTHER APPLICABLE LIMITATIONS STATED IN THIS SECTION OR IN PART 2 OF ARTICLE 75 OF TITLE 35, C.R.S., THE DOLLAR AMOUNT OF TAX CREDITS THAT MAY BE CLAIMED BY ANY TAXPAYER SHALL NOT EXCEED THE FOLLOWING:

(a) FOR INDIVIDUALS FILING FEDERAL INCOME TAX RETURNS AS MARRIED FILING SEPARATELY, FIFTY THOUSAND DOLLARS PER TAX YEAR, AND FOR THOSE FILING FEDERAL INCOME TAX RETURNS AS SINGLE OR MARRIED FILING JOINTLY, ONE HUNDRED THOUSAND DOLLARS PER TAX YEAR.

(b) FOR A CONTROLLED GROUP OF "C" CORPORATIONS, AS DEFINED IN 26 U.S.C. SEC. 1563(a), ONE HUNDRED THOUSAND DOLLARS PER TAX YEAR FOR THE ENTIRE AFFILIATED GROUP.

(c) FOR QUALIFIED SUBCHAPTER "S" SUBSIDIARIES AND PARENT CORPORATIONS THEREOF, AND FOR ALL LIMITED LIABILITY COMPANIES RELATED BY AT LEAST EIGHTY PERCENT OWNERSHIP, ONE HUNDRED THOUSAND DOLLARS PER TAX YEAR FOR ALL SUCH RELATED CORPORATIONS IN TOTAL.

(d) FOR ALL ENTITIES ELECTING PASS-THROUGH ENTITY STATUS FOR FEDERAL INCOME TAX PURPOSES, ONE HUNDRED THOUSAND DOLLARS PER TAX YEAR FOR EACH ENTITY THAT PASSES CREDIT THROUGH TO A PERSON SUBJECT TO INCOME TAX, SHARED BY THE TAXPAYER OWNERS ON THE SAME BASIS AS PROFITS AND LOSSES ARE SHARED.

**39-22-528. Tax credit for participation in agriculture value-added cash fund.**

(1) AS USED IN THIS SECTION:

(a) "BOARD" MEANS THE COLORADO AGRICULTURAL VALUE-ADDED DEVELOPMENT BOARD CREATED IN SECTION 35-75-203, C.R.S.

(b) "PARTICIPANT" HAS THE MEANING SET FORTH IN SECTION 35-75-202 (6), C.R.S.

(2) SUBJECT TO THE PROVISIONS OF SECTION 39-22-527 (6) AND THE PROVISIONS OF THIS SECTION, FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2001, IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE CONTROLLER CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR THE STATE FISCAL YEAR ENDING IN THAT INCOME TAX YEAR EXCEEDS THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION AND THE VOTERS STATEWIDE EITHER HAVE NOT AUTHORIZED THE STATE TO RETAIN AND SPEND ALL OF THE EXCESS STATE REVENUES OR HAVE AUTHORIZED THE STATE TO RETAIN AND SPEND ONLY A PORTION OF THE EXCESS STATE REVENUES FOR THAT FISCAL YEAR, THERE SHALL BE ALLOWED TO EACH PARTICIPANT WHO HAS HAD AN APPLICATION FOR A TAX CREDIT APPROVED IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION, A CREDIT WITH RESPECT TO THE INCOME TAXES IMPOSED BY THIS ARTICLE IN AN AMOUNT OF UP TO ONE HUNDRED PERCENT OF THE AMOUNT PAID BY THE PARTICIPANT TO THE BOARD. THE ISSUANCE OF SUCH TAX CREDIT SHALL BE SUBJECT TO THE APPROVAL OF THE BOARD. A PARTICIPANT WHO RECEIVES TAX CREDITS PURSUANT TO THIS SECTION MAY NOT BE A MEMBER, OWNER, INVESTOR, OR LENDER OF AN ELIGIBLE AGRICULTURAL VALUE-ADDED COOPERATIVE THAT RECEIVES FINANCIAL ASSISTANCE FROM THE BOARD EITHER AT THE TIME THE PAYMENT IS MADE OR FOR A PERIOD OF TWO YEARS THEREAFTER.

(3) TO QUALIFY FOR THE CREDIT PROVIDED BY THIS SECTION, A PARTICIPANT SHALL SUBMIT A TAX CREDIT CERTIFICATE WITH EACH INCOME TAX RETURN. APPLICATION FORMS FOR TAX CREDIT CERTIFICATES SHALL BE OBTAINED FROM THE BOARD. UPON RECEIVING A PROPERLY COMPLETED APPLICATION FORM FROM A PARTICIPANT, THE BOARD SHALL DETERMINE WHETHER THE PARTICIPANT HAS SATISFIED THE REQUIREMENTS FOR ALLOWANCE OF THE CREDIT AS SPECIFIED IN THIS SECTION, SECTION 35-75-204, C.R.S., AND SECTION 39-22-527 (6), AND THE REQUIREMENTS OF THE BOARD. IF THE PARTICIPANT HAS SATISFIED SAID REQUIREMENTS AND THE BOARD HAS NOT ALREADY ISSUED TAX CREDIT CERTIFICATES IN THE MAXIMUM AMOUNT PERMITTED FOR THE FISCAL YEAR IN WHICH AN APPLICATION WAS FILED, THE BOARD SHALL ISSUE A TAX CREDIT CERTIFICATE IN THE APPROPRIATE AMOUNT AND SHALL NOTIFY THE EXECUTIVE DIRECTOR OF THE AMOUNT OF THE TAX CREDIT AND THE IDENTITY OF THE PARTICIPANT. THE MAXIMUM AGGREGATE VALUE OF TAX CREDIT CERTIFICATES THAT THE BOARD MAY ISSUE PURSUANT TO THIS SECTION AND SECTION 39-22-527 IN ANY GIVEN FISCAL YEAR IS FOUR MILLION DOLLARS.

(4) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT, IN ORDER FOR ALL GEOGRAPHIC AREAS OF COLORADO TO HAVE THE OPPORTUNITY FOR ECONOMIC DEVELOPMENT, IT IS VITAL THAT A SOURCE OF FUNDING BE CREATED FOR RURAL BUSINESS ENTERPRISES. THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT CREATING AN INCOME TAX CREDIT FOR PARTICIPATION IN THE AGRICULTURE VALUE-ADDED CASH FUND IS A REASONABLE METHOD OF REFUNDING A PORTION OF THE EXCESS STATE REVENUES REQUIRED TO BE REFUNDED IN ACCORDANCE WITH SECTION 20 (7) (d) OF ARTICLE X OF THE STATE CONSTITUTION.

(5) IF THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THE PROVISIONS OF THIS SECTION EXCEEDS THE AMOUNT OF THE 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 SAID INCOME TAX YEAR SHALL NOT BE CARRIED FORWARD AND USED AS A CREDIT AGAINST THE TAXPAYER'S SUBSEQUENT YEARS' INCOME TAX LIABILITY AND SHALL BE REFUNDED TO THE TAXPAYER.

(6) (a) IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE CONTROLLER CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR THE STATE FISCAL YEAR COMMENCING ON JULY 1, 2000, EXCEEDS THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION FOR THAT FISCAL YEAR BY LESS THAN FOUR HUNDRED MILLION DOLLARS, THEN THE CREDIT AUTHORIZED BY SUBSECTION (2) OF THIS SECTION SHALL NOT BE ALLOWED FOR THE INCOME TAX YEAR COMMENCING ON JANUARY 1, 2001.

(b) IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE CONTROLLER CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR ANY STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2001, EXCEEDS THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION FOR THAT FISCAL YEAR BY LESS THAN FOUR HUNDRED MILLION DOLLARS, AS ADJUSTED PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (6), THEN THE CREDIT AUTHORIZED BY SUBSECTION (2) OF THIS SECTION SHALL NOT BE ALLOWED FOR THE INCOME TAX YEAR IN WHICH SAID STATE FISCAL YEAR ENDED.

(c) NO LATER THAN OCTOBER 1 OF ANY GIVEN CALENDAR YEAR COMMENCING ON OR AFTER JANUARY 1, 2002, THE EXECUTIVE DIRECTOR SHALL ANNUALLY ADJUST THE DOLLAR AMOUNT SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (6) TO REFLECT THE RATE OF GROWTH OF COLORADO PERSONAL INCOME FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH SUCH ADJUSTMENT IS MADE. FOR PURPOSES OF THIS PARAGRAPH (c), "THE RATE OF GROWTH OF COLORADO PERSONAL INCOME" MEANS THE PERCENTAGE CHANGE BETWEEN THE MOST RECENT PUBLISHED ANNUAL ESTIMATE OF TOTAL PERSONAL INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY REPORTED BY THE BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES DEPARTMENT OF COMMERCE FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH THE ADJUSTMENT IS MADE AND THE MOST RECENT PUBLISHED ANNUAL ESTIMATE OF TOTAL PERSONAL INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY REPORTED BY THE BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES DEPARTMENT OF COMMERCE FOR THE CALENDAR YEAR PRIOR TO THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH THE ADJUSTMENT IS MADE.

(d) UPON CALCULATING THE ADJUSTMENT OF SAID DOLLAR AMOUNT IN ACCORDANCE WITH PARAGRAPH (c) OF THIS SUBSECTION (6), THE EXECUTIVE DIRECTOR SHALL NOTIFY IN WRITING THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL CREATED PURSUANT TO SECTION 2-3-301 (1), C.R.S., OF THE ADJUSTED DOLLAR AMOUNT AND THE BASIS FOR THE ADJUSTMENT. SUCH WRITTEN NOTIFICATION SHALL BE GIVEN WITHIN FIVE WORKING DAYS AFTER SUCH CALCULATION IS COMPLETED, BUT SUCH WRITTEN NOTIFICATION SHALL BE GIVEN NO

LATER THAN OCTOBER 1 OF THE CALENDAR YEAR.

(e) IT IS THE FUNCTION OF THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL TO REVIEW AND APPROVE OR DISAPPROVE SUCH ADJUSTMENT OF SAID DOLLAR AMOUNT WITHIN TWENTY DAYS AFTER RECEIPT OF SUCH WRITTEN NOTIFICATION FROM THE EXECUTIVE DIRECTOR. ANY ADJUSTMENT THAT IS NOT APPROVED OR DISAPPROVED BY THE EXECUTIVE COMMITTEE WITHIN SAID TWENTY DAYS SHALL BE AUTOMATICALLY APPROVED; EXCEPT THAT, IF WITHIN SAID TWENTY DAYS THE EXECUTIVE COMMITTEE SCHEDULES A HEARING ON SUCH ADJUSTMENT, SUCH AUTOMATIC APPROVAL SHALL NOT OCCUR UNLESS THE EXECUTIVE COMMITTEE DOES NOT APPROVE OR DISAPPROVE SUCH ADJUSTMENT AFTER THE CONCLUSION OF SUCH HEARING. ANY HEARING CONDUCTED BY THE EXECUTIVE COMMITTEE PURSUANT TO THIS PARAGRAPH (e) SHALL BE CONCLUDED NO LATER THAN TWENTY-FIVE DAYS AFTER RECEIPT OF SUCH WRITTEN NOTIFICATION FROM THE EXECUTIVE DIRECTOR.

(f) IF THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL DISAPPROVES ANY ADJUSTMENT OF SAID DOLLAR AMOUNT CALCULATED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE PURSUANT TO THIS SUBSECTION (6), THE EXECUTIVE COMMITTEE SHALL SPECIFY SUCH ADJUSTED DOLLAR AMOUNT TO BE UTILIZED BY THE EXECUTIVE DIRECTOR. ANY ADJUSTED DOLLAR AMOUNT SPECIFIED BY THE EXECUTIVE COMMITTEE PURSUANT TO THIS PARAGRAPH (f) SHALL BE CALCULATED IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH (c) OF THIS SUBSECTION (6).

(g) FOR THE PURPOSE OF DETERMINING WHETHER THE STATE INCOME TAX CREDIT AUTHORIZED BY THIS SECTION IS TO BE ALLOWED IN ANY GIVEN TAX YEAR, THE EXECUTIVE DIRECTOR SHALL NOT UTILIZE ANY ADJUSTED DOLLAR AMOUNT THAT HAS NOT BEEN APPROVED PURSUANT TO PARAGRAPH (e) OF THIS SUBSECTION (6) OR OTHERWISE SPECIFIED PURSUANT TO PARAGRAPH (f) OF THIS SUBSECTION (6).

(7) IF ONE OR MORE BALLOT QUESTIONS ARE SUBMITTED TO THE VOTERS AT A STATEWIDE ELECTION TO BE HELD IN NOVEMBER OF ANY CALENDAR YEAR COMMENCING ON OR AFTER JANUARY 1, 2001, THAT SEEK AUTHORIZATION FOR THE STATE TO RETAIN AND SPEND ALL OR ANY PORTION OF THE AMOUNT OF EXCESS STATE REVENUES FOR THE STATE FISCAL YEAR ENDING DURING SAID CALENDAR YEAR, THE EXECUTIVE DIRECTOR SHALL NOT DETERMINE WHETHER THE CREDIT AUTHORIZED BY SUBSECTION (2) OF THIS SECTION SHALL BE ALLOWED AND SHALL NOT PROMULGATE RULES CONCERNING THE ALLOWANCE OF SAID CREDIT UNTIL THE IMPACT OF THE RESULTS OF SAID ELECTION ON THE AMOUNT OF THE EXCESS STATE REVENUES TO BE REFUNDED IS ASCERTAINED.

(8) IN ADDITION TO ANY OTHER APPLICABLE LIMITATIONS STATED IN THIS SECTION, IN SECTION 39-22-527 (6), OR IN PART 2 OF ARTICLE 75 OF TITLE 35, C.R.S., THE DOLLAR AMOUNT OF TAX CREDITS THAT MAY BE CLAIMED BY ANY TAXPAYER SHALL NOT EXCEED THE FOLLOWING:

(a) FOR INDIVIDUALS FILING FEDERAL INCOME TAX RETURNS AS MARRIED FILING SEPARATELY, FIFTY THOUSAND DOLLARS PER TAX YEAR, AND FOR THOSE FILING FEDERAL INCOME TAX RETURNS AS SINGLE OR MARRIED FILING JOINTLY, ONE HUNDRED THOUSAND DOLLARS PER TAX YEAR.

(b) FOR A CONTROLLED GROUP OF "C" CORPORATIONS, AS DEFINED IN 26 U.S.C. SEC. 1563(a), ONE HUNDRED THOUSAND DOLLARS PER TAX YEAR FOR THE ENTIRE AFFILIATED GROUP.

(c) FOR QUALIFIED SUBCHAPTER "S" SUBSIDIARIES AND PARENT CORPORATIONS THEREOF, AND FOR ALL LIMITED LIABILITY COMPANIES RELATED BY AT LEAST EIGHTY PERCENT OWNERSHIP, ONE HUNDRED THOUSAND DOLLARS PER TAX YEAR FOR ALL SUCH RELATED CORPORATIONS IN TOTAL.

(d) FOR ALL ENTITIES ELECTING PASS-THROUGH ENTITY STATUS FOR FEDERAL INCOME TAX PURPOSES, ONE HUNDRED THOUSAND DOLLARS PER TAX YEAR FOR EACH ENTITY THAT PASSES CREDIT THROUGH TO A PERSON SUBJECT TO INCOME TAX, SHARED BY THE TAXPAYER OWNERS ON THE SAME BASIS AS PROFITS AND LOSSES ARE SHARED.

**SECTION 4. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the agricultural value-added cash fund, to the department of agriculture, for the fiscal year beginning July 1, 2001, the sum of seventy-four thousand eight hundred thirty-seven dollars (\$74,837) and 0.5 FTE, or so much thereof as may be necessary, for the implementation of this act.

**SECTION 5. Effective date - applicability.** This act shall take effect upon passage and shall apply to tax years commencing on or after January 1, 2001.

**SECTION 6. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 30, 2001