

## CHAPTER 379

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**TAXATION**


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**HOUSE BILL 26-1223**

BY REPRESENTATIVE(S) Woodrow and Boesenecker, Bacon, Brown, Clifford, Lindsay, McCormick, Nguyen, Rutinel, Sirota, Smith, Zokaie, McCluskie, Duran, Ricks;  
also SENATOR(S) Ball and Roberts, Amabile, Bridges, Cutter, Kipp, Mullica, Weissman, Coleman.

**AN ACT**

**CONCERNING MODIFYING CERTAIN TAX EXPENDITURES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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

**SECTION 1.** In Colorado Revised Statutes, **add** 39-22-131 as follows:

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

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

(b) THE GENERAL ASSEMBLY AND THE STATE AUDITOR, IN CONSULTATION WITH THE DEPARTMENT, SHALL MEASURE THE EFFECTIVENESS OF THE INCOME TAX CREDIT CREATED IN THIS SECTION IN COMBINATION WITH THE FAMILY AFFORDABILITY TAX CREDIT AND, IN THE SAME MANNER AS THE GENERAL ASSEMBLY AND THE STATE AUDITOR MEASURE THE EFFECTIVENESS OF THE FAMILY AFFORDABILITY TAX CREDIT BY DETERMINING THE NUMBER OF COLORADO FAMILIES THAT, AFTER CLAIMING A CREDIT PURSUANT TO THIS SECTION AND THE FAMILY AFFORDABILITY TAX CREDIT,

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*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.*

NO LONGER FALL BELOW THE FEDERAL POVERTY LEVEL IN THE TAX YEAR IN WHICH THEY CLAIMED THE CREDITS.

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

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

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

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

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

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

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

(g) "SINGLE FILER ADJUSTED BASE INCOME" MEANS, FOR INCOME TAX YEARS COMMENCING BEFORE JANUARY 1, 2034, AN AMOUNT OF ADJUSTED GROSS INCOME EQUAL TO THE AMOUNT OF ADJUSTED GROSS INCOME DETERMINED BY THE DEPARTMENT PURSUANT TO SECTION 39-22-130 (7) TO BE NECESSARY FOR A SINGLE RESIDENT INDIVIDUAL WHO FILES A SINGLE RETURN TO QUALIFY FOR THE FAMILY AFFORDABILITY TAX CREDIT PURSUANT TO SECTION 39-22-130 FOR THE INCOME TAX YEAR COMMENCING ON JANUARY 1, 2027.

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

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

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

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

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

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

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

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

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

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

(5) BEGINNING WITH THE QUARTERLY JUNE REVENUE FORECAST THAT LEGISLATIVE COUNCIL STAFF PRESENTS IN JUNE OF 2027, AND FOR EACH JUNE REVENUE FORECAST THEREAFTER, AS PART OF THE QUARTERLY JUNE REVENUE FORECAST, LEGISLATIVE COUNCIL STAFF SHALL DETERMINE:

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

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

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

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

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

(9) THE DEPARTMENT IS AUTHORIZED AND ENCOURAGED TO DEVELOP A MEANS OF REFUNDING THE CREDITS TO RESIDENT INDIVIDUALS WHO QUALIFY FOR THE CREDITS IN TWELVE EQUAL MONTHLY REFUNDS RATHER THAN ANNUALLY.

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

**SECTION 2.** In Colorado Revised Statutes, 39-26-102, **amend** (5.7) and (15)(c) as follows:

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

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

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

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

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

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

(C) The computer software is delivered to the customer in a tangible medium. Computer software is not delivered to the customer in a tangible medium if it is provided through an application service provider, delivered by electronic computer software delivery, or transferred by load and leave computer software delivery.

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

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

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

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

(D) "Load and leave computer software delivery" means delivery of computer software to the purchaser by use of a tangible medium where the title to or possession of the tangible medium is not transferred to the purchaser, and where the computer software is manually loaded by the vendor, or the vendor's representative, at the purchaser's location.

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

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

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

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

(IV) ~~If a retailer sells computer software to a Colorado purchaser that is considered tangible personal property taxable pursuant to section 39-26-104 (1)(a) and the Colorado purchaser pays the retailer for a quantity of computer software licenses with the intent to distribute the computer software to any of the purchaser's locations outside of Colorado, the measure of Colorado sales tax due is the total of the license fees associated only with the licenses that are actually used in Colorado. The Colorado purchaser shall provide a written statement to the retailer, attesting to the amount of the license fees associated with Colorado and with points outside of Colorado. The written statement shall relieve the retailer of any liability associated with the proration.~~

**SECTION 3.** In Colorado Revised Statutes, 39-26-102, **add** (21)(c) as follows:

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

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

(21) (c) (I) BEGINNING JULY 1, 2026, BUT BEFORE JULY 1, 2046, A RETAILER THAT SELLS FOOD OR DRINK AS DESCRIBED IN SECTION 39-26-104 (1)(e) IS DEEMED TO USE GAS AND ELECTRICITY IN THE PROCESSING OF PREPARED FOOD AS FOLLOWS:

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

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

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

**SECTION 4.** In Colorado Revised Statutes, 39-26-105, **amend** (1.3)(a)(III)(C), (1.3)(a)(V)(B), (1.3)(a)(V)(C), (1.3)(b)(I), (1.3)(c), (1.3)(c.5), and (1.3)(f.7); and **add** (1.3)(a)(V)(D), (1.3)(a)(V)(E), and (1.3)(b)(III) as follows:

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

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

(III) (C) "Qualifying retailer" means, for the specified sales tax ~~period~~ PERIODS in ~~subsection (1.3)(a)(V)(C)~~ SUBSECTIONS (1.3)(a)(V)(C), (1.3)(a)(V)(D), and (1.3)(a)(V)(E) of this section, a retailer doing business in the state that timely files sales tax returns as required under subsection (1)(b) of this section and section 39-26-109 and that operates in the alcoholic beverages drinking places industry, the catering industry, the food services contractor industry, the restaurant and other eating places industry, or the mobile food services industry, or that operates a hotel-operated restaurant, bar, or catering service.

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

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

(D) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (1.3)(a)(V)(D), AS AMENDED, "SPECIFIED SALES TAX PERIOD" MEANS SALES MADE IN JULY 2027, AUGUST 2027, NOVEMBER 2027, AND DECEMBER 2027, FOR WHICH MONTHLY RETURNS MUST BE FILED PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION, ON AUGUST 20, 2027, SEPTEMBER 20, 2027, DECEMBER 20, 2027, AND JANUARY 20, 2028, RESPECTIVELY.

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

(b) (I) A qualifying retailer in the alcoholic beverages drinking places industry, in the restaurant and other eating places industry, in the food services contractor industry, or operating a hotel-operated restaurant, bar, or catering service may deduct from state net taxable sales the lesser of state net taxable sales or, EXCEPT AS PROVIDED IN SUBSECTION (1)(b)(III) OF THIS SECTION, seventy thousand dollars and retain the resulting sales tax collected for each month specified in subsection (1.3)(a)(V) of this section.

(III) FOR EACH MONTH SPECIFIED IN SUBSECTIONS (1.3)(a)(V)(D) AND (1.3)(a)(V)(E) OF THIS SECTION, THE MAXIMUM DEDUCTION ALLOWED PURSUANT TO SUBSECTION (1.3)(b)(I) OF THIS SECTION IS FOURTEEN THOUSAND DOLLARS.

(c)(I) A qualifying retailer in the mobile food services industry may deduct from state net taxable sales the lesser of aggregate state net taxable sales for all sites or, EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1)(c)(II) OF THIS SECTION, seventy thousand dollars per motorized vehicle or nonmotorized cart, not to exceed five motorized vehicles or nonmotorized carts, and retain the resulting state sales tax collected for each month ~~specified~~ IN THE SPECIFIED SALES TAX PERIOD in subsection (1.3)(a)(V)(A) of this section.

(II) FOR EACH MONTH SPECIFIED IN SUBSECTIONS (1.3)(a)(V)(D) AND (1.3)(a)(V)(E) OF THIS SECTION, THE MAXIMUM DEDUCTION ALLOWED PURSUANT TO SUBSECTION (1.3)(c)(I) OF THIS SECTION IS FOURTEEN THOUSAND DOLLARS.

(c.5)(I) A qualifying retailer in the catering industry may deduct from state net taxable sales the lesser of aggregate state net taxable sales for all events or, EXCEPT AS PROVIDED IN SUBSECTION (1)(c.5)(II) OF THIS SECTION, seventy thousand dollars and retain the resulting state sales tax collected for each month specified in subsection (1.3)(a)(V) of this section.

(II) FOR EACH MONTH SPECIFIED IN SUBSECTIONS (1.3)(a)(V)(D) AND (1.3)(a)(V)(E) OF THIS SECTION, THE MAXIMUM DEDUCTION ALLOWED PURSUANT TO SUBSECTION (1.3)(c.5)(I) OF THIS SECTION IS FOURTEEN THOUSAND DOLLARS.

(f.7) To the extent that information is available, ~~and without changing the sales tax return form~~, the department of revenue shall include a report to its committee of reference at a hearing held in January ~~2023~~ EACH YEAR, pursuant to section 2-7-203 (2)(a) of the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" specifying:

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

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

**SECTION 5.** In Colorado Revised Statutes, 39-26-123, **amend** (3)(b)(I)(B) as follows:

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

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

(b) (I) (B) Except as set forth in subsection (3)(b)(II) of this section and subject to subsection (3)(b)(III) of this section, beginning January 1, 2026, AND UNTIL DECEMBER 31, 2026, MONTHLY, an amount equal to one and six hundred fifty-five thousandths percent of net revenue excluding net revenue collected under part 2 of this article 26, which amount the state treasurer shall credit to the housing development grant fund created in section 24-32-721 (1); BEGINNING JANUARY 1, 2027, AND UNTIL DECEMBER 31, 2028, MONTHLY, AN AMOUNT EQUAL TO ONE AND SIX HUNDRED TWENTY-NINE THOUSANDTHS PERCENT OF NET REVENUE EXCLUDING NET REVENUE COLLECTED UNDER PART 2 OF THIS ARTICLE 26, WHICH AMOUNT THE STATE TREASURER SHALL CREDIT TO THE HOUSING DEVELOPMENT GRANT FUND CREATED IN SECTION 24-32-721 (1); AND, BEGINNING JANUARY 1, 2029, MONTHLY, AN AMOUNT EQUAL TO ONE AND SIX HUNDRED TWENTY-FIVE THOUSANDTHS PERCENT OF NET REVENUE EXCLUDING NET REVENUE COLLECTED UNDER PART 2 OF THIS ARTICLE 26, WHICH AMOUNT THE STATE TREASURER SHALL CREDIT TO THE HOUSING DEVELOPMENT GRANT FUND CREATED IN SECTION 24-32-721 (1).

**SECTION 6.** In Colorado Revised Statutes, 39-26-713, **add** (3) as follows:

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

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

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

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

(c) FOR PURPOSES OF THIS ARTICLE 26, "SIGNED IN WRITING BY AUTHORIZED REPRESENTATIVES OF BOTH THE LICENSOR AND LICENSEE" SPECIFICALLY EXCLUDES AN ACCEPTANCE BY THE LICENSEE ON A CLICK-THROUGH, BROWSE-WRAP, SHRINK-WRAP, EMBEDDED SIGNATURE, IMPLIED, ACCOUNT CREATION, OR ANY OTHER AUTOMATED BASIS; EXCEPT THAT "SIGNED IN WRITING BY AUTHORIZED REPRESENTATIVES OF BOTH THE LICENSOR AND LICENSEE" MAY INCLUDE A SIGNATURE PERFORMED THROUGH AN ELECTRONIC SIGNATURE METHOD AUTHORIZED PURSUANT TO SECTION 39-21-120 AND DEPARTMENT RULES AND SPECIFICALLY

INCLUDES ELECTRONIC SIGNATURE METHODS SUCH AS DOCUSIGN OR A SIMILAR AUTHENTICATED ELECTRONIC SIGNATURE.

(d) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE MAY ADOPT RULES NECESSARY TO IMPLEMENT THIS SECTION.

**SECTION 7.** In Colorado Revised Statutes, 39-26-715, **add** (2)(b)(IV) as follows:

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

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

(b) (IV) BEGINNING JULY 1, 2026, BUT BEFORE JULY 1, 2046, FOR PURPOSES OF THIS SUBSECTION (2)(b), THE DEEMED USAGE RULES SET FORTH IN SECTION 39-26-102 (21)(c)(I) APPLY.

**SECTION 8. Appropriation.** (1) For the 2026-27 state fiscal year, \$48,326 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) \$10,086 to the executive director's office for personal services related to administration and support;

(b) \$13,821 to the taxation business group for personal services related to taxation services; and

(c) \$24,419 for tax administration IT system (GenTax) support.

**SECTION 9. Applicability.** Sections 2 and 3 of this act apply to the sale, storage, use, and consumption of tangible personal property on or after January 1, 2027.

**SECTION 10. Effective date.** This act takes effect upon passage; except that section 1 of this act takes effect only if House Bill 26-1221 and House Bill 26-1222 do not become law.

**SECTION 11. Safety clause.** The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

Approved: June 4, 2026