

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 20-1303.01 Megan Waples x4348

HOUSE BILL 20-1413

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A BILL FOR AN ACT

101 **CONCERNING THE ESTABLISHMENT OF A STATE AND PRIVATE INVESTOR**
102 **FUNDED SMALL BUSINESS RECOVERY LOAN PROGRAM, AND, IN**
103 **CONNECTION THEREWITH, AUTHORIZING THE DEPARTMENT OF**
104 **THE TREASURY TO OBTAIN THE STATE SHARE OF FUNDING FOR**
105 **THE PROGRAM BY SELLING INSURANCE PREMIUM TAX CREDITS**
106 **TO QUALIFIED TAXPAYERS AND AUTHORIZING THE STATE**
107 **TREASURER TO CONTRACT WITH A PROGRAM MANAGER TO**
108 **ESTABLISH AND ADMINISTER THE PROGRAM.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

<http://leg.colorado.gov>.)

The bill authorizes the state treasurer to enter into a contract or contracts to establish a small business recovery loan program (loan program). The purpose of the loan program is to assist the state's recovery from the COVID-19 pandemic by leveraging private investment for loans to Colorado small businesses recovering from the COVID-19 crisis. The treasurer is authorized to contract with the Colorado housing and finance authority or a private entity selected through an open and competitive process.

Subject to the availability of proceeds from insurance premium tax credit purchases, the state treasurer may invest up to \$30 million in first loss capital from the small business recovery fund established in the bill in fiscal year 2020-21, and up to \$30 million in first loss capital in fiscal year 2021-22; except that the total invested across both fiscal years may not exceed \$50 million. The investments must be made in tranches of no more than \$10 million each. Each tranche must be matched at a 4-to-1 ratio by money invested from other sources before it is committed or deployed. Once the money in a tranche is matched, it must be used to make loans of working capital to Colorado businesses with between 5 and 100 employees that meet eligibility criteria. The loans must be between \$30,000 and \$500,000, with a maturity of up to 5 years. The state treasurer may not invest a new tranche of state money until the prior tranche is at least 90% invested in small business loans.

When each tranche is deployed, it is subject to an initial period of time in which a portion of the money is allocated to each county on a per capita basis and reserved for eligible borrowers located in that county. After the initial period of time passes, the money remaining in the tranche is available on a statewide basis.

The small business recovery loan program oversight board (oversight board) is created in the department of the treasury (department). The oversight board consists of the state treasurer, the director of the office of economic development, a member appointed by the speaker of the house of representatives, a member appointed by the president of the senate, and a member appointed by the governor. The oversight board consults with the treasurer on the selection of a loan program manager, establishes certain terms and criteria applicable to the loan program, and provides oversight and guidance to the loan program to ensure it complies with statutory requirements and fulfills the purpose of assisting Colorado small businesses recovering from the COVID-19 crisis. The loan program manager must report on a quarterly basis to the oversight board. The oversight board must file written reports with the joint budget committee twice each fiscal year, and must report once each fiscal year for the first 2 years to the business committees of the house and senate.

1 **24-36-201. Short title.** THE SHORT TITLE OF THIS PART 2 IS THE
2 "COLORADO LOANS FOR INCREASING MAIN STREET BUSINESS ECONOMIC
3 RECOVERY ACT" OR "CLIMBER ACT".

4 **24-36-202. Legislative declaration.** (1) THE GENERAL ASSEMBLY
5 HEREBY FINDS AND DECLARES THAT:

6 (a) THERE ARE NEARLY ONE HUNDRED FORTY THOUSAND SMALL
7 BUSINESSES WITH EMPLOYEES IN COLORADO;

8 (b) SMALL BUSINESSES IN COLORADO MAKE UP A
9 DISPROPORTIONATELY LARGER SHARE OF THE ECONOMY OF THE STATE
10 COMPARED TO THE UNITED STATES AS A WHOLE;

11 (c) SMALL BUSINESSES COLLECTIVELY EMPLOYED OVER ONE
12 MILLION COLORADANS BEFORE THE PUBLIC HEALTH CRISIS CAUSED BY
13 COVID-19 BEGAN;

14 (d) THE COVID-19 PANDEMIC HAS HARMED PUBLIC HEALTH AND
15 ECONOMIC CONDITIONS ACROSS THE ENTIRE WORLD, INCLUDING THE
16 STATE OF COLORADO, ACROSS METROPOLITAN REGIONS, SMALL TOWNS,
17 AND RURAL COMMUNITIES, AND HAS HAD A PARTICULARLY DEEP
18 NEGATIVE FINANCIAL IMPACT ON SMALL BUSINESSES, THEIR EMPLOYEES,
19 AND THEIR HOME COMMUNITIES;

20 (e) THE WIDE-RANGING HEALTH AND ECONOMIC IMPACTS OF THE
21 COVID-19 PANDEMIC ARE UNPRECEDENTED IN RECENT HISTORY AND
22 CREATE UNIQUE CHALLENGES FOR THE STATE;

23 (f) THE HEALTH, SAFETY, AND WELFARE OF THE PEOPLE OF THE
24 STATE DEPEND ON THE RECOVERY OF THE STATE'S ECONOMY, INCLUDING
25 THE SMALL BUSINESSES THAT MAKE UP A SIGNIFICANT SHARE OF THAT
26 ECONOMY;

27 (g) ON MARCH 27, 2020, THE PRESIDENT OF THE UNITED STATES

1 SIGNED THE FEDERAL "CORONAVIRUS AID, RELIEF, AND ECONOMIC
2 SECURITY ACT", ALSO KNOWN AS THE "CARES ACT", PUB.L. 116-136, TO
3 PROVIDE NECESSARY FEDERAL FUNDING FOR COVID-19 RESPONSE AND
4 RECOVERY;

5 (h) THE CARES ACT, ALONG WITH OTHER FEDERAL LAWS AND
6 PROGRAMS, PROVIDED MANY CRITICAL RESOURCES FOR SMALL
7 BUSINESSES, BUT THOSE RESOURCES ARE NOT EXPECTED TO BE SUFFICIENT
8 TO SUSTAIN THE LARGE AND DIVERSE SMALL BUSINESS COMMUNITY IN THE
9 STATE AS IT RECOVERS OVER THE NEXT FEW YEARS FROM THE COVID-19
10 CRISIS;

11 (i) THE GOVERNOR'S COUNCIL ON ECONOMIC STABILIZATION AND
12 GROWTH, MADE UP OF VOLUNTEERS FROM THE PRIVATE, PUBLIC, AND
13 PHILANTHROPIC SECTORS WITH DIVERSE BACKGROUNDS FROM ACROSS
14 COLORADO, HAS RECOMMENDED THAT THE STATE SEED THE
15 ESTABLISHMENT OF A LOAN FUND OF OVER ONE HUNDRED MILLION
16 DOLLARS TO STIMULATE LOANS TO COLORADO SMALL BUSINESSES TO
17 SUPPORT THE STATE'S RECOVERY AND RESILIENCY; AND

18 (j) AUTHORIZING THE CREATION OF A SMALL BUSINESS RECOVERY
19 LOAN PROGRAM SEEDED BY MONEY PROVIDED BY THE STATE WILL
20 SUPPORT SMALL BUSINESSES AFFECTED BY THE COVID-19 CRISIS AND
21 ASSIST IN THE OVERALL ECONOMIC RECOVERY OF THE STATE.

22 (2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

23 (a) WHILE THE LOAN PROGRAM AUTHORIZED BY THIS PART 2 WILL
24 BE PREDOMINATELY CAPITALIZED BY PRIVATE SECTOR INVESTMENTS, THE
25 LIMITED USE OF STATE MONEY OBTAINED THROUGH THE SALE OF
26 INSURANCE PREMIUM TAX CREDITS THAT WILL RESULT IN FUTURE STATE
27 TAX EXPENDITURES INCURRED FOR THE PURPOSE OF SUPPORTING THE

1 PROGRAM WILL, UNDER THE CURRENT ECONOMIC CONDITIONS, RESULT IN
2 THE FORMATION OF MORE PRIVATE CAPITAL AT BETTER TERMS FOR SMALL
3 BUSINESS BORROWERS THAN WOULD OTHERWISE BE AVAILABLE;

4 (b) THE LOAN PROGRAM, IF SUCCESSFUL, HAS THE POTENTIAL TO
5 HELP SMALL BUSINESSES SURVIVE THE CRISIS CAUSED BY COVID-19 AND
6 TO PROTECT JOBS ACROSS THE STATE, WHICH IN TURN WILL GENERATE AND
7 SUSTAIN TAX REVENUES TO BOTH THE STATE AND LOCAL GOVERNMENTS;

8 (c) PRESERVING JOBS WITH SMALL BUSINESSES WILL ALSO REDUCE
9 PUBLIC EXPENDITURES ON SAFETY NET PROGRAMS AND OTHER FORMS OF
10 ASSISTANCE NEEDED BY THOSE WHO HAVE BECOME UNEMPLOYED AS A
11 RESULT OF THE CRISIS CAUSED BY COVID-19;

12 (d) THE STATE MONEY CONTRIBUTED TO THE LOAN PROGRAM
13 THEREFORE SERVES AN IMPORTANT AND DISCRETE PUBLIC PURPOSE IN
14 SECURING THE STATE'S ECONOMIC AND OVERALL RECOVERY FROM THE
15 CRISIS CAUSED BY COVID-19; AND

16 (e) SUPPORTING THE STATE'S RECOVERY FROM THE CRISIS CAUSED
17 BY COVID-19 IS THE PRIMARY PURPOSE OF THE LOAN PROGRAM AND
18 OUTWEIGHS ANY BENEFIT TO PRIVATE INDIVIDUALS OR ENTITIES.

19 (3) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

20 (a) THE INSURANCE PREMIUM TAX CREDITS AUTHORIZED BY THIS
21 PART 2 AS A METHOD TO PROVIDE MONEY TO THE LOAN PROGRAM ARE
22 AVAILABLE ONLY TO INSURANCE COMPANIES THAT INCUR PREMIUM TAX
23 LIABILITY IN THE STATE;

24 (b) THE TAX CREDITS CAN ONLY BE USED BY AN INSURANCE
25 COMPANY TO OFFSET TAX LIABILITY ACTUALLY INCURRED BY THE
26 INSURANCE COMPANY;

27 (c) THE TAX CREDITS ARE NOT REFUNDABLE AND DO NOT IMPOSE

1 AN OBLIGATION OF PAYMENT IN ANY FUTURE YEAR UPON THE STATE;
2 (d) THE USE OF PROCEEDS FROM THE SALE OF INSURANCE PREMIUM
3 TAX CREDITS TO SEED THE LOAN PROGRAM ALLOWS THE STATE TO
4 ACCOMPLISH THIS IMPORTANT PUBLIC PURPOSE THROUGH THE USE OF
5 FUTURE TAX EXPENDITURES AND THEREFORE:

6 (I) DOES NOT REQUIRE THE STATE TO BORROW MONEY, EXTEND OR
7 PLEDGE THE STATE'S CREDIT, OR OBLIGATE THE STATE TO MAKE FUTURE
8 PAYMENTS FROM STATE REVENUES; AND

9 (II) DOES NOT OTHERWISE CREATE ANY MULTIPLE-FISCAL YEAR
10 DIRECT OR INDIRECT DISTRICT DEBT OR OTHER FINANCIAL OBLIGATION
11 WHATSOEVER FOR PURPOSES OF SECTION 20 (4)(a) OF ARTICLE X OF THE
12 STATE CONSTITUTION.

13 **24-36-203. Definitions.** AS USED IN THIS PART 2, UNLESS THE
14 CONTEXT OTHERWISE REQUIRES:

15 (1) "COLORADO CREDIT RESERVE" MEANS THE COLORADO CREDIT
16 RESERVE PROGRAM DESCRIBED IN SECTION 24-46-104 (1)(n).

17 (2) "CONTRACT" MEANS A CONTRACT ENTERED INTO BY THE STATE
18 TREASURER IN ACCORDANCE WITH SECTION 24-36-205 (1).

19 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF THE TREASURY.

20 (4) "ELIGIBLE BORROWER" MEANS A BUSINESS THAT, AS
21 DETERMINED BY THE OVERSIGHT BOARD:

22 (a) HAS ITS PRINCIPAL PLACE OF BUSINESS IN THE STATE;

23 (b) HAS AT LEAST FIVE BUT FEWER THAN ONE HUNDRED
24 EMPLOYEES;

25 (c) CAN DEMONSTRATE THAT IT HAD AT LEAST TWO CONSECUTIVE
26 YEARS OF POSITIVE CASH FLOW PRIOR TO FEBRUARY 29, 2020; AND

27 (d) CAN DEMONSTRATE THAT IT HAD A DEBT-SERVICE COVERAGE

1 RATIO AS OF FEBRUARY 29, 2020, OF AT LEAST ONE-TO-ONE OR A HIGHER
2 LEVEL AS DETERMINED BY THE OVERSIGHT BOARD.

3 (5) "LOAN PROGRAM" MEANS A SMALL BUSINESS RECOVERY LOAN
4 PROGRAM ESTABLISHED IN ACCORDANCE WITH SECTION 24-36-205.

5 (6) "LOAN PROGRAM MANAGER" MEANS AN ENTITY THE STATE
6 TREASURER CONTRACTS WITH TO ESTABLISH AND ADMINISTER THE LOAN
7 PROGRAM IN ACCORDANCE WITH SECTION 24-36-205 (2).

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

10 (8) "OVERSIGHT BOARD" MEANS THE SMALL BUSINESS RECOVERY
11 LOAN PROGRAM OVERSIGHT BOARD CREATED IN SECTION 24-36-204.

12 (9) "PREMIUM TAX LIABILITY" MEANS THE LIABILITY IMPOSED BY
13 SECTION 10-3-209 OR 10-6-128, OR, IN THE CASE OF A REPEAL OR
14 REDUCTION BY THE STATE OF THE LIABILITY IMPOSED BY SECTION
15 10-3-209 OR 10-6-128, ANY OTHER TAX LIABILITY IMPOSED UPON AN
16 INSURANCE COMPANY BY THE STATE.

17 (10) "QUALIFIED TAXPAYER" MEANS AN INSURANCE COMPANY
18 AUTHORIZED TO DO BUSINESS IN COLORADO THAT HAS PREMIUM TAX
19 LIABILITY OWING TO THE STATE AND THAT PURCHASES A TAX CREDIT
20 UNDER THIS PART 2. "QUALIFIED TAXPAYER" ALSO INCLUDES AN
21 INSURANCE COMPANY THAT RECEIVES OR ASSUMES A TAX CREDIT
22 TRANSFERRED IN ACCORDANCE WITH SECTION 24-36-206 (7)(e) OR
23 24-36-207 (6).

24 (11) "SMALL BUSINESS RECOVERY FUND" OR "FUND" MEANS THE
25 SMALL BUSINESS RECOVERY FUND ESTABLISHED IN SECTION 24-36-208.

26 (12) "SMALL BUSINESS RECOVERY TAX CREDIT" OR "TAX CREDIT"
27 MEANS THE TAX CREDIT CREATED IN SECTION 24-36-206.

1 (13) "TAX CREDIT SALE PROCEEDS" OR "SALE PROCEEDS" MEANS
2 THE MONEY OR OTHER LIQUID ASSET ACCEPTABLE TO THE STATE
3 TREASURER THAT A QUALIFIED TAXPAYER PAYS TO THE DEPARTMENT
4 THAT IS DEPOSITED IN THE SMALL BUSINESS RECOVERY FUND.

5 **24-36-204. Small business recovery loan program oversight**
6 **board - creation - report - repeal.** (1) THE SMALL BUSINESS RECOVERY

7 LOAN PROGRAM OVERSIGHT BOARD IS HEREBY CREATED IN THE
8 DEPARTMENT TO HELP ESTABLISH AND OVERSEE THE TERMS AND
9 CONDITIONS OF A CONTRACT OR CONTRACTS THROUGH WHICH THE
10 TREASURER MAY PROVIDE FIRST LOSS CAPITAL TO A LOAN PROGRAM OR
11 THE COLORADO CREDIT RESERVE. THIS SECTION DOES NOT PROHIBIT A
12 LOAN PROGRAM MANAGER OF A SPECIFIC LOAN PROGRAM OR THE
13 COLORADO CREDIT RESERVE FROM ESTABLISHING A SEPARATE
14 INVESTMENT ADVISORY COMMITTEE FOR THAT LOAN PROGRAM.

15 (2) (a) THE OVERSIGHT BOARD CONSISTS OF FIVE MEMBERS, AS
16 FOLLOWS:

17 (I) THE STATE TREASURER OR THE STATE TREASURER'S DESIGNEE;

18 (II) THE DIRECTOR OF THE OFFICE OF ECONOMIC DEVELOPMENT OR
19 THE DIRECTOR'S DESIGNEE;

20 (III) ONE MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE OF
21 REPRESENTATIVES;

22 (IV) ONE MEMBER APPOINTED BY THE PRESIDENT OF THE SENATE;

23 AND

24 (V) ONE MEMBER APPOINTED BY THE GOVERNOR.

25 (b) THE APPOINTING AUTHORITIES SHALL MAKE THEIR INITIAL
26 APPOINTMENTS TO THE OVERSIGHT BOARD NO LATER THAN JULY 31, 2020.

27 (c) THE MEMBERS APPOINTED PURSUANT TO SUBSECTION (2)(a) OF

1 THIS SECTION MUST HAVE SUBSTANTIAL PRIVATE SECTOR EXPERIENCE IN
2 COMMERCIAL BANKING OR CAPITAL MARKET ACTIVITIES AND MUST HAVE
3 OBTAINED EXECUTIVE LEVEL POSITIONS IN THESE INDUSTRIES.

4 (d) THE CHAIR OF THE GOVERNOR'S COUNCIL ON ECONOMIC
5 STABILIZATION AND GROWTH AND THE CO-CHAIRS OF THE COUNCIL'S
6 FINANCIAL SERVICES COMMITTEE SHALL CONSULT WITH AND PROVIDE
7 RECOMMENDATIONS ON INITIAL APPOINTMENTS TO THE APPOINTING
8 AUTHORITIES.

9 (3) EACH MEMBER OF THE OVERSIGHT BOARD WHO IS APPOINTED
10 PURSUANT TO SUBSECTION (2) OF THIS SECTION SERVES AT THE PLEASURE
11 OF THE OFFICIAL WHO APPOINTED THE MEMBER. THE TERM OF
12 APPOINTMENT IS THREE YEARS. AN APPOINTED MEMBER MAY SERVE
13 MULTIPLE TERMS. IN THE EVENT OF A VACANCY IN AN APPOINTED POSITION
14 ON THE OVERSIGHT BOARD, A NEW MEMBER SHALL BE APPOINTED IN THE
15 SAME MANNER AS PROVIDED IN SUBSECTIONS (2)(a)(III) TO (2)(a)(V) OF
16 THIS SECTION FOR THE UNEXPIRED PORTION OF THE TERM.

17 (4) EACH MEMBER OF THE OVERSIGHT BOARD SERVES WITHOUT
18 COMPENSATION BUT IS ENTITLED TO REIMBURSEMENT FOR ACTUAL,
19 REASONABLE, AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE
20 OF HIS OR HER DUTIES AS A MEMBER OF THE OVERSIGHT BOARD.

21 (5) THE STATE TREASURER, OR THE STATE TREASURER'S DESIGNEE,
22 SHALL SERVE AS THE CHAIR OF THE OVERSIGHT BOARD.

23 (6) THE OVERSIGHT BOARD SHALL MEET AT LEAST ONCE EVERY
24 QUARTER. THE CHAIR MAY CALL SUCH ADDITIONAL MEETINGS AS ARE
25 NECESSARY FOR THE OVERSIGHT BOARD TO COMPLETE ITS DUTIES.

26 (7) THE OVERSIGHT BOARD'S ACTIVITIES WITH REGARD TO A
27 CONTRACT OR CONTRACTS FOR THE PROVISION OF STATE MONEY FOR A

1 LOAN PROGRAM ESTABLISHED IN ACCORDANCE WITH SECTION 24-36-205
2 INCLUDE, AT A MINIMUM:

3 (a) CONSULTING WITH THE STATE TREASURER ON THE SELECTION
4 OF A LOAN PROGRAM MANAGER;

5 (b) DETERMINING SPECIFIC TERMS APPLICABLE TO A LOAN
6 PROGRAM AS REQUIRED IN SECTION 24-36-205, INCLUDING THE DURATION
7 OF THE GEOGRAPHIC RESTRICTION OF MONEY IN A LOAN PROGRAM;

8 (c) PROVIDING GUIDANCE AND INPUT THROUGHOUT THE
9 IMPLEMENTATION OF A LOAN PROGRAM;

10 (d) ESTABLISHING AND PUBLISHING TARGETS FOR THE
11 PERCENTAGE OF LOANS SUPPORTED BY A LOAN PROGRAM THAT ARE MADE
12 TO BUSINESSES OWNED BY WOMEN, MINORITIES, AND VETERANS AND TO
13 BUSINESSES LOCATED IN RURAL COUNTIES. IN ESTABLISHING THE TARGETS
14 REQUIRED BY THIS SUBSECTION (7)(d), THE OVERSIGHT BOARD SHALL
15 CONSULT WITH THE MINORITY BUSINESS OFFICE WITHIN THE OFFICE OF THE
16 GOVERNOR AND THE DIVISION OF BUSINESS FUNDING AND INCENTIVES
17 WITHIN THE OFFICE OF ECONOMIC DEVELOPMENT;

18 (e) REGULARLY REVIEWING PROGRESS IN ACHIEVING THE TARGETS
19 ESTABLISHED PURSUANT TO SUBSECTION (7)(d) OF THIS SECTION AND
20 MAKING ADJUSTMENTS TO A LOAN PROGRAM TO HELP ACHIEVE THE
21 TARGETS IF NEEDED; AND

22 (f) PROVIDING SUCH ADDITIONAL OVERSIGHT AND CREATING
23 POLICIES AND PROCEDURES AS MAY BE NECESSARY TO ENSURE THAT THE
24 PROGRAM COMPLIES WITH THE REQUIREMENTS OF THIS PART 2 AND
25 FULFILLS ITS PURPOSE OF SUPPORTING THE STATE'S RECOVERY FROM THE
26 COVID-19 PANDEMIC BY ASSISTING COLORADO SMALL BUSINESSES IN
27 RECOVERING FROM THE CRISIS CAUSED BY COVID-19.

1 (8) THE OVERSIGHT BOARD SHALL CONSULT WITH SMALL
2 BUSINESSES IN ESTABLISHING THE CRITERIA FOR ELIGIBLE BORROWERS
3 PURSUANT TO SECTION 24-36-203 (4).

4 (9) THE OVERSIGHT BOARD SHALL ADOPT A CONFLICT OF INTEREST
5 POLICY FOR ITS MEMBERS IN ORDER TO PREVENT THOSE WHO SERVE ON
6 THE BOARD FROM PROFITING OR OTHERWISE BENEFITING FROM ELIGIBLE
7 LOANS.

8 (10) A MEMBER OF THE OVERSIGHT BOARD MAY ASSIST IN RAISING
9 MONEY OR INVESTMENTS FOR A LOAN PROGRAM WITHOUT COMPENSATION.

10 (11)(a) THE OVERSIGHT BOARD SHALL SUBMIT A WRITTEN REPORT
11 ON THE IMPLEMENTATION OF THE LOAN PROGRAM TO THE JOINT BUDGET
12 COMMITTEE. THE OVERSIGHT BOARD SHALL SUBMIT ITS FIRST REPORT ON
13 OR BEFORE NOVEMBER 30, 2020, AND SHALL SUBMIT THE REPORT EACH
14 SIX MONTHS THEREAFTER FOR A PERIOD OF TWO YEARS. AFTER THE
15 REPORT SUBMITTED NOVEMBER 30, 2022, THE OVERSIGHT BOARD SHALL
16 SUBMIT THE REPORT ANNUALLY, ON OR BEFORE NOVEMBER 30 OF EACH
17 YEAR. THE OVERSIGHT BOARD SHALL ALSO SUBMIT THE REPORT ONCE
18 EACH YEAR IN FISCAL YEARS 2020-21 AND 2021-22 TO THE BUSINESS
19 AFFAIRS AND LABOR COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR
20 ANY SUCCESSOR COMMITTEE, AND THE BUSINESS, LABOR, AND
21 TECHNOLOGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR
22 COMMITTEE. NOTWITHSTANDING THE REQUIREMENT IN SECTION 24-1-136
23 (11)(a)(I), THE REQUIREMENT TO SUBMIT THE REPORT REQUIRED IN THIS
24 SUBSECTION (11) CONTINUES UNTIL THIS SECTION IS REPEALED.

25 (b) THE REPORT MUST INCLUDE, AT A MINIMUM, INFORMATION ON
26 THE FOLLOWING:

27 (I) THE NUMBER AND SIZE OF LOANS MADE;

- 1 (II) THE GEOGRAPHIC DISTRIBUTION OF LOANS MADE;
- 2 (III) THE DISTRIBUTION OF LOANS MADE BY BUSINESS SECTOR;
- 3 (IV) THE DEMOGRAPHICS OF THE OWNERS OF THE BUSINESSES
- 4 RECEIVING LOANS, INCLUDING THE NUMBER OF BUSINESSES OWNED BY
- 5 WOMEN, MINORITIES, AND VETERANS;
- 6 (V) THE NUMBER OF LOANS MADE TO RURAL BUSINESSES;
- 7 (VI) THE SIZE OF THE BUSINESSES RECEIVING LOANS;
- 8 (VII) THE NUMBER OF PEOPLE EMPLOYED BY THE BUSINESSES
- 9 RECEIVING LOANS;
- 10 (VIII) DISTRIBUTIONS OR REVENUE RECEIVED BY THE STATE FROM
- 11 THE PROGRAM;
- 12 (IX) THE FINANCIAL PERFORMANCE OF THE FUND;
- 13 (X) THE DEFAULT RATES FOR LOANS MADE BY THE PROGRAM;
- 14 (XI) BORROWER INTEREST RATES ON THE LOANS AND AN
- 15 EXPLANATION OF HOW THE RATES COMPLY WITH THE REQUIREMENTS OF
- 16 SECTION 24-36-205 (4)(b)(V); AND
- 17 (XII) ANY OTHER INFORMATION REQUESTED BY THE CHAIR OF THE
- 18 JOINT BUDGET COMMITTEE, THE BUSINESS AFFAIRS AND LABOR
- 19 COMMITTEE OF THE HOUSE OF REPRESENTATIVES OR ANY SUCCESSOR
- 20 COMMITTEE, OR THE BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE OF
- 21 THE SENATE OR ANY SUCCESSOR COMMITTEE.
- 22 (c) THE OVERSIGHT BOARD SHALL MAKE A PRESENTATION TO A
- 23 JOINT MEETING OF THE BUSINESS AFFAIRS AND LABOR COMMITTEE OF THE
- 24 HOUSE OF REPRESENTATIVES AND THE BUSINESS, LABOR, AND
- 25 TECHNOLOGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR
- 26 COMMITTEES, AT LEAST ONCE EACH FISCAL YEAR OR MORE OFTEN IF
- 27 REQUESTED BY THE CHAIRS OF THE COMMITTEES.

1 (12) THIS SECTION IS REPEALED, EFFECTIVE JUNE 30, 2029.

2 **24-36-205. Small business recovery loan program - creation -**
3 **requirements - oversight.** (1)(a) THE STATE TREASURER IS AUTHORIZED

4 TO ENTER INTO A CONTRACT OR CONTRACTS TO ESTABLISH A SMALL
5 BUSINESS RECOVERY LOAN PROGRAM IN ACCORDANCE WITH THIS PART 2.

6 (b) THE PURPOSE OF THE LOAN PROGRAM IS TO SUPPORT THE
7 STATE'S RECOVERY FROM THE ECONOMIC CRISIS CAUSED BY COVID-19
8 THROUGH LEVERAGING PRIVATE INVESTMENT TO SUPPORT COLORADO
9 SMALL BUSINESSES RECOVERING FROM THE CRISIS CAUSED BY COVID-19
10 BY MAKING LOANS, ACQUIRING PARTICIPATION INTEREST IN LOANS,
11 LEVERAGING PRIVATE SMALL BUSINESS LENDING THROUGH THE
12 COLORADO CREDIT RESERVE PROGRAM, OR OTHER ACTIVITIES THAT
13 ACCOMPLISH THE SAME PURPOSE.

14 (2) THE STATE TREASURER MAY CONTRACT WITH THE COLORADO
15 HOUSING AND FINANCE AUTHORITY CREATED IN PART 7 OF ARTICLE 4 OF
16 TITLE 29 OR WITH A BANK, NONPROFIT ORGANIZATION, NONDEPOSITORY
17 COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION, BUSINESS
18 DEVELOPMENT CORPORATION, CERTIFIED PUBLIC ACCOUNTANT FIRM, OR
19 FUND MANAGER TO ADMINISTER A LOAN PROGRAM. IF THE STATE
20 TREASURER CONTRACTS WITH AN ENTITY OTHER THAN THE COLORADO
21 HOUSING AND FINANCE AUTHORITY TO ADMINISTER A LOAN PROGRAM, THE
22 STATE TREASURER SHALL USE AN OPEN AND COMPETITIVE PROCESS TO
23 SELECT THE ENTITY. THE STATE TREASURER SHALL CONSULT WITH THE
24 DIRECTOR OF THE OFFICE OF ECONOMIC DEVELOPMENT AND THE
25 OVERSIGHT BOARD IN SELECTING AND CONTRACTING WITH A LOAN
26 PROGRAM MANAGER.

27 (3)(a) NOTWITHSTANDING ANY RESTRICTION ON THE INVESTMENT

1 OF STATE MONEY SET FORTH IN SECTION 24-36-113 OR IN ANY OTHER
2 PROVISION OF LAW, SUBJECT TO THE AVAILABILITY OF MONEY IN THE
3 SMALL BUSINESS RECOVERY FUND AND THE REQUIREMENTS OF THIS PART
4 2:

5 (I) IN FISCAL YEAR 2020-21, THE STATE TREASURER MAY PROVIDE
6 UP TO THIRTY MILLION DOLLARS IN FIRST LOSS CAPITAL TO A LOAN
7 PROGRAM OR PROGRAMS OR TO THE COLORADO CREDIT RESERVE FROM
8 THE SMALL BUSINESS RECOVERY FUND; AND

9 (II) SUBJECT TO THE LIMITATIONS IN SUBSECTION (3)(b) OF THIS
10 SECTION, IN FISCAL YEAR 2021-22, THE STATE TREASURER MAY PROVIDE
11 UP TO THIRTY MILLION DOLLARS IN FIRST LOSS CAPITAL TO A LOAN
12 PROGRAM OR PROGRAMS OR TO THE COLORADO CREDIT RESERVE FROM
13 THE SMALL BUSINESS RECOVERY FUND.

14 (b) THE MONEY PROVIDED UNDER THIS SUBSECTION (3) MUST BE
15 PROVIDED IN TRANCHES OF TEN MILLION DOLLARS OR LESS, UP TO A
16 MAXIMUM AMOUNT OF FIFTY MILLION DOLLARS IN ALL TRANCHES
17 COMBINED ACROSS FISCAL YEARS 2020-21 AND 2021-22. THE STATE
18 TREASURER SHALL NOT PROVIDE A TRANCHE TO A LOAN PROGRAM OR TO
19 THE COLORADO CREDIT RESERVE UNTIL AT LEAST NINETY PERCENT OF THE
20 MONEY IN ANY PRIOR TRANCHE HAS BEEN INVESTED IN SMALL BUSINESS
21 LOANS IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION, AS
22 DETERMINED BY THE OVERSIGHT BOARD AND CERTIFIED BY THE LOAN
23 PROGRAM MANAGER. MONEY PROVIDED TO THE COLORADO CREDIT
24 RESERVE IS CONSIDERED INVESTED IN SMALL BUSINESS LOANS FOR THE
25 PURPOSES OF THIS SUBSECTION (3)(b) ONCE IT IS PAID TO THE COLORADO
26 HOUSING AND FINANCE AUTHORITY.

27 (4) ANY CONTRACT FOR THE ADMINISTRATION OF A LOAN

1 PROGRAM MUST INCLUDE THE FOLLOWING TERMS IN ORDER TO RECEIVE
2 MONEY PROVIDED BY THE STATE TREASURER PURSUANT TO SUBSECTION
3 (3) OF THIS SECTION:

4 (a) EXCEPT FOR MONEY CONTRIBUTED TO THE COLORADO CREDIT
5 RESERVE, THE MONEY PROVIDED BY THE STATE TREASURER IN A SINGLE
6 TRANCHE SHALL NOT BE COMMITTED PURSUANT TO A CONTRACT RELATING
7 TO A LOAN PROGRAM UNTIL MONEY IS COMMITTED PURSUANT TO A
8 CONTRACT RELATING TO A LOAN PROGRAM FROM OTHER SOURCES AT A
9 RATIO OF FOUR DOLLARS FROM OTHER SOURCES FOR EACH ONE DOLLAR
10 PROVIDED BY THE STATE. IF A LOAN PROGRAM MANAGER DOES NOT
11 SECURE SUFFICIENT INVESTMENTS FROM OTHER SOURCES TO MEET THIS
12 REQUIREMENT WITHIN THE TIME ALLOWED BY A CONTRACT, THE MONEY
13 PROVIDED BY THE STATE SHALL BE RETURNED TO THE SMALL BUSINESS
14 RECOVERY FUND.

15 (b) EXCEPT FOR MONEY CONTRIBUTED TO THE COLORADO CREDIT
16 RESERVE, ONCE THE MONEY IN A TRANCHE IS MATCHED IN ACCORDANCE
17 WITH SUBSECTION (4)(a) OF THIS SECTION, IT MUST BE USED TO MAKE
18 LOANS OR PURCHASE PARTICIPATION INTEREST IN LOANS FOR WORKING
19 CAPITAL TO ELIGIBLE BORROWERS, OR OTHER ACTIVITIES THAT
20 ACCOMPLISH THE SAME PURPOSE. EACH LOAN MUST BE SUBJECT TO THE
21 FOLLOWING TERMS:

22 (I) THE LOAN MUST BE IN AN AMOUNT OF AT LEAST THIRTY
23 THOUSAND DOLLARS BUT NOT MORE THAN FIVE HUNDRED THOUSAND
24 DOLLARS;

25 (II) THE LOAN MUST HAVE AN INITIAL MATURITY OF NOT MORE
26 THAN FIVE YEARS, BASED ON THE NEED OF THE ELIGIBLE BORROWER, WITH
27 NO PENALTY FOR PREPAYMENT;

1 (III) THE PRINCIPAL MUST BE AMORTIZED;

2 (IV) PRINCIPAL AND INTEREST PAYMENTS MAY BE DEFERRED FOR
3 UP TO ONE YEAR, WITH THE UNPAID INTEREST BEING CAPITALIZED;

4 (V) THE LOAN MUST CARRY AN INTEREST RATE THAT IS LOWER
5 THAN WOULD OTHERWISE BE AVAILABLE ON A RISK-ADJUSTED BASIS FROM
6 A COMMERCIAL LENDER OR THAT BEARS TERMS THAT ARE NOT OTHERWISE
7 AVAILABLE FROM A COMMERCIAL LENDER, AS DETERMINED BY THE
8 OVERSIGHT BOARD; AND

9 (VI) THE ELIGIBLE BORROWER MAY PROVIDE A PERSONAL
10 GUARANTEE, COLLATERAL, OR OTHER SECURITY AS DETERMINED BY THE
11 OVERSIGHT BOARD, WHICH MAY BE SUBORDINATE TO EXISTING DEBT.

12 (c) (I) IN ORDER TO ENSURE GEOGRAPHIC EQUITY, EACH TRANCHE
13 OF LOAN FUNDING MUST BE SUBJECT TO AN INITIAL PERIOD OF TIME IN
14 WHICH A PORTION OF THE MONEY IS ALLOCATED TO EACH COUNTY ON A
15 PER CAPITA BASIS AND IS RESERVED FOR APPLICATIONS FROM ELIGIBLE
16 BORROWERS LOCATED IN THAT COUNTY. FOR THE PURPOSES OF THIS
17 SUBSECTION (4)(c), AN ELIGIBLE BORROWER IS CONSIDERED TO BE
18 LOCATED IN THE COUNTY IN WHICH IT HAS ITS PRINCIPAL PLACE OF
19 BUSINESS, AS REFLECTED IN ITS MOST RECENT FILING WITH THE
20 SECRETARY OF STATE OR SUBJECT TO SUCH OTHER DOCUMENTATION AS
21 THE OVERSIGHT BOARD ESTABLISHES. THE OVERSIGHT BOARD SHALL
22 DETERMINE THE AMOUNT OF TIME IN WHICH THE MONEY IN EACH TRANCHE
23 IS SUBJECT TO A GEOGRAPHIC RESTRICTION UNDER THIS SUBSECTION
24 (4)(c)(I).

25 (II) ONCE THE TIME PERIOD ESTABLISHED BY THE OVERSIGHT
26 BOARD UNDER SUBSECTION (4)(c)(I) OF THIS SECTION HAS PASSED, ALL
27 MONEY REMAINING IN THE TRANCHE IS AVAILABLE TO ELIGIBLE

1 BORROWERS ON A STATEWIDE BASIS.

2 (III) FOR MONEY CONTRIBUTED TO THE COLORADO CREDIT
3 RESERVE, THE OVERSIGHT BOARD MAY WAIVE THE REQUIREMENTS OF THIS
4 SUBSECTION (4)(c) OR ESTABLISH ALTERNATIVE GEOGRAPHIC
5 DISTRIBUTION REQUIREMENTS OR TARGETS.

6 (d) (I) A LOAN PROGRAM MANAGER SHALL MAKE EVERY EFFORT
7 TO ACHIEVE TARGETS PUBLISHED BY THE OVERSIGHT BOARD PURSUANT TO
8 SECTION 24-36-204 (7)(d) FOR THE PERCENTAGE OF LOANS SUPPORTED BY
9 THE PROGRAM THAT ARE MADE TO BUSINESSES OWNED BY WOMEN,
10 MINORITIES, AND VETERANS AND TO BUSINESSES LOCATED IN RURAL
11 COUNTIES. A LOAN PROGRAM MANAGER SHALL CONSULT WITH THE
12 MINORITY BUSINESS OFFICE WITHIN THE OFFICE OF THE GOVERNOR AND
13 THE DIVISION OF BUSINESS FUNDING AND INCENTIVES WITHIN THE OFFICE
14 OF ECONOMIC DEVELOPMENT TO DEVELOP AN OUTREACH STRATEGY FOR
15 MARKETING THE LOAN PROGRAM TO BUSINESSES OWNED BY WOMEN,
16 MINORITIES, AND VETERANS AND BUSINESSES LOCATED IN RURAL
17 COUNTIES.

18 (II) FOR MONEY CONTRIBUTED TO THE COLORADO CREDIT
19 RESERVE, THE OVERSIGHT BOARD MAY WAIVE THE REQUIREMENTS OF THIS
20 SUBSECTION (4)(d) OR MAY ESTABLISH ALTERNATIVE TARGETS FOR THE
21 PERCENTAGE OF LOANS SUPPORTED BY THE PROGRAM THAT ARE MADE TO
22 BUSINESSES OWNED BY WOMEN, MINORITIES, AND VETERANS AND TO
23 BUSINESSES LOCATED IN RURAL COUNTIES.

24 (e) A LOAN PROGRAM MANAGER SHALL WORK WITH THE DIVISION
25 OF BUSINESS FUNDING AND INCENTIVES WITHIN THE OFFICE OF ECONOMIC
26 DEVELOPMENT TO ALIGN THE PROGRAM WITH OTHER ACCESS TO CAPITAL
27 PROGRAMS IN THE STATE.

1 (5) IF THE MONEY IN A TRANCHE IS NOT FULLY INVESTED IN SMALL
2 BUSINESS LOANS AS DETERMINED BY THE OVERSIGHT BOARD IN THE TIME
3 PERIOD ALLOWED UNDER A CONTRACT, THE PORTION OF THE UNUSED
4 MONEY PROVIDED BY THE STATE SHALL BE RETURNED TO THE SMALL
5 BUSINESS RECOVERY FUND.

6 (6) DISTRIBUTIONS OR REVENUE PAID TO THE STATE PURSUANT TO
7 A CONTRACT UNDER THIS SECTION SHALL BE DEPOSITED IN THE SMALL
8 BUSINESS RECOVERY FUND; EXCEPT THAT, IF SUCH DISTRIBUTIONS OR
9 REVENUE ARE PAID AFTER THE SMALL BUSINESS RECOVERY FUND IS
10 REPEALED, THE MONEY SHALL BE PAID TO THE STATE TREASURER, WHO
11 SHALL CREDIT THE MONEY TO THE GENERAL FUND.

12 (7) THE LOAN PROGRAM MANAGER SHALL REPORT ON THE
13 IMPLEMENTATION OF THE LOAN PROGRAM TO THE OVERSIGHT BOARD AT
14 LEAST QUARTERLY, WITHIN ONE MONTH AFTER THE END OF EACH
15 CALENDAR QUARTER, OR MORE OFTEN IF REQUESTED BY THE OVERSIGHT
16 BOARD. THE REPORTS MUST INCLUDE THE INFORMATION NECESSARY TO
17 ALLOW THE BOARD TO PROVIDE THE REPORTS REQUIRED IN SECTION
18 24-36-204 (11), AND ANY ADDITIONAL INFORMATION REQUESTED BY THE
19 BOARD.

20 **24-36-206. Small business recovery tax credits - authorization**
21 **to issue - terms - report.** (1) A QUALIFIED TAXPAYER MAY PURCHASE
22 SMALL BUSINESS RECOVERY TAX CREDITS FROM THE DEPARTMENT IN
23 ACCORDANCE WITH THIS SECTION AND MAY APPLY THE TAX CREDITS
24 AGAINST ITS PREMIUM TAX LIABILITY IN ACCORDANCE WITH SECTION
25 24-36-207.

26 (2) (a) THE DEPARTMENT IS AUTHORIZED TO ISSUE TAX CREDIT
27 CERTIFICATES TO QUALIFIED TAXPAYERS EQUAL TO THE LESSER OF A

1 TOTAL FACE VALUE OF UP TO FORTY MILLION DOLLARS OR TOTAL SALES
2 PROCEEDS OF UP TO THIRTY MILLION FIVE HUNDRED THOUSAND DOLLARS
3 IN FISCAL YEAR 2020-21.

4 (b) THE DEPARTMENT IS AUTHORIZED TO ISSUE TAX CREDIT
5 CERTIFICATES TO QUALIFIED TAXPAYERS EQUAL TO THE LESSER OF A
6 TOTAL FACE VALUE OF UP TO TWENTY-EIGHT MILLION DOLLARS OR TOTAL
7 SALES PROCEEDS OF UP TO TWENTY-ONE MILLION DOLLARS IN FISCAL YEAR
8 2021-22; EXCEPT THAT, IF MONEY RECEIVED BY THE STATE FROM THE
9 FEDERAL GOVERNMENT HAS BEEN APPROPRIATED, TRANSFERRED, OR
10 ALLOCATED TO THE FUND FOR THE PURPOSES OF THIS PART 2, THE VALUE
11 OF THE TAX SALES PROCEEDS THAT THE DEPARTMENT IS AUTHORIZED TO
12 RAISE UNDER THIS SUBSECTION (2)(b) IN FISCAL YEAR 2021-22 IS REDUCED
13 BY THE AMOUNT OF FEDERAL MONEY APPROPRIATED, TRANSFERRED, OR
14 ALLOCATED BY THE FUND.

15 (c) THE DEPARTMENT MAY CONTRACT WITH AN INDEPENDENT
16 THIRD PARTY TO CONDUCT OR CONSULT ON A BIDDING PROCESS AMONG
17 QUALIFIED TAXPAYERS TO PURCHASE THE TAX CREDITS.

18 (d) THE DEPARTMENT SHALL CONSULT WITH INSURANCE
19 COMPANIES IN ADVANCE OF ISSUING ANY TAX CREDITS IN ACCORDANCE
20 WITH THIS SECTION.

21 (3) AN INSURANCE COMPANY AUTHORIZED TO DO BUSINESS IN
22 COLORADO SEEKING TO PURCHASE TAX CREDITS MUST APPLY TO THE
23 DEPARTMENT IN THE MANNER PRESCRIBED BY THE DEPARTMENT.

24 (4) USING PROCEDURES ADOPTED BY THE DEPARTMENT, OR, IF
25 APPLICABLE, BY AN INDEPENDENT THIRD PARTY, EACH INSURANCE
26 COMPANY THAT SUBMITS AN APPLICATION SHALL MAKE A TIMELY AND
27 IRREVOCABLE OFFER, CONTINGENT ONLY UPON THE DEPARTMENT'S

1 ISSUANCE TO THE INSURANCE COMPANY OF THE TAX CREDIT CERTIFICATES,
2 TO MAKE A SPECIFIED PURCHASE PAYMENT AMOUNT TO THE DEPARTMENT
3 ON DATES SPECIFIED BY THE DEPARTMENT. THE OFFER MUST INCLUDE ALL
4 OF THE FOLLOWING:

5 (a) THE REQUESTED AMOUNT OF TAX CREDITS, WHICH MUST NOT
6 BE LESS THAN ANY MINIMUM AMOUNT ESTABLISHED IN PROCEDURES BY
7 THE DEPARTMENT OR, IF APPLICABLE, THE INDEPENDENT THIRD PARTY;

8 (b) THE QUALIFIED TAXPAYER'S PROPOSED TAX CREDIT PURCHASE
9 AMOUNT FOR EACH TAX CREDIT DOLLAR REQUESTED. THE MINIMUM
10 PROPOSED TAX CREDIT PURCHASE AMOUNT MUST BE EITHER:

11 (I) THE PERCENTAGE OF THE REQUESTED DOLLAR AMOUNT OF TAX
12 CREDITS THAT THE DEPARTMENT AND, IF APPLICABLE, THE INDEPENDENT
13 THIRD PARTY DETERMINES TO BE CONSISTENT WITH MARKET CONDITIONS
14 AS OF THE OFFER DATE; OR

15 (II) IF NO AMOUNT IS ESTABLISHED BY THE DEPARTMENT OR
16 INDEPENDENT THIRD PARTY PURSUANT TO SUBSECTION (4)(b)(I) OF THIS
17 SECTION, SEVENTY-FIVE PERCENT OF THE REQUESTED DOLLAR AMOUNT OF
18 TAX CREDITS; AND

19 (c) ANY OTHER INFORMATION THE DEPARTMENT, OR, IF
20 APPLICABLE, INDEPENDENT THIRD PARTY REQUIRES.

21 (5) THE DEPARTMENT SHALL PROVIDE WRITTEN NOTICE TO EACH
22 INSURANCE COMPANY THAT SUBMITS AN APPLICATION INDICATING
23 WHETHER OR NOT THE INSURANCE COMPANY HAS BEEN APPROVED AS A
24 PURCHASER OF TAX CREDITS AND, IF SO, THE AMOUNT OF TAX CREDITS
25 ALLOCATED AND THE DATE BY WHICH PAYMENT OF THE TAX CREDIT SALE
26 PROCEEDS MUST BE MADE.

27 (6) ON RECEIPT OF PAYMENT OF THE SALE PROCEEDS, THE

1 DEPARTMENT SHALL ISSUE TO EACH QUALIFIED TAXPAYER A TAX CREDIT
2 CERTIFICATE. THE TAX CREDIT CERTIFICATE MUST STATE ALL OF THE
3 FOLLOWING:

4 (a) THE TOTAL AMOUNT OF PREMIUM TAX CREDITS THAT THE
5 QUALIFIED TAXPAYER MAY CLAIM;

6 (b) THE AMOUNT THAT THE QUALIFIED TAXPAYER HAS PAID OR
7 AGREED TO PAY IN RETURN FOR THE ISSUANCE OF THE TAX CREDIT
8 CERTIFICATES AND THE DATE OF THE PAYMENT;

9 (c) THE DATES ON WHICH THE TAX CREDITS WILL BE AVAILABLE
10 FOR USE BY THE QUALIFIED TAXPAYER;

11 (d) ANY PENALTIES OR OTHER REMEDIES FOR NONCOMPLIANCE;

12 (e) THE PROCEDURES TO BE USED FOR TRANSFERRING OR
13 ASSUMING THE TAX CREDITS IN ACCORDANCE WITH SUBSECTION (7)(e) OF
14 THIS SECTION OR SECTION 24-36-207 (6);

15 (f) THE SERIAL NUMBER OF THE TAX CREDIT CERTIFICATE; AND

16 (g) ANY OTHER REQUIREMENTS DEEMED NECESSARY BY THE
17 DEPARTMENT AS A CONDITION OF ISSUING THE TAX CREDIT CERTIFICATE.

18 (7) (a) THE DEPARTMENT SHALL NOT ISSUE A TAX CREDIT
19 CERTIFICATE TO ANY QUALIFIED TAXPAYER THAT FAILS TO PROVIDE THE
20 TAX CREDIT SALE PROCEEDS WITHIN THE TIME THE DEPARTMENT
21 SPECIFIES.

22 (b) A QUALIFIED TAXPAYER THAT FAILS TO PROVIDE THE TAX
23 CREDIT SALE PROCEEDS WITHIN THE TIME THE DEPARTMENT SPECIFIES IS
24 SUBJECT TO A PENALTY EQUAL TO TEN PERCENT OF THE AMOUNT OF THE
25 PURCHASE PRICE THAT REMAINS UNPAID. THE PENALTY MUST BE PAID TO
26 THE DEPARTMENT WITHIN THIRTY DAYS AFTER DEMAND.

27 (c) THE DEPARTMENT MAY OFFER TO REALLOCATE THE DEFAULTED

1 TAX CREDITS AMONG OTHER QUALIFIED TAXPAYERS, SO THAT THE RESULT
2 AFTER REALLOCATION IS THE SAME AS IF THE INITIAL ALLOCATION HAD
3 BEEN PERFORMED WITHOUT CONSIDERING THE TAX CREDIT ALLOCATION
4 TO THE DEFAULTING QUALIFIED TAXPAYER.

5 (d) IF THE REALLOCATION OF TAX CREDITS UNDER SUBSECTION
6 (7)(c) OF THIS SECTION RESULTS IN THE PAYMENT BY ANOTHER QUALIFIED
7 TAXPAYER OF THE AMOUNT OF TAX CREDIT SALE PROCEEDS NOT PAID BY
8 THE DEFAULTING QUALIFIED TAXPAYER, THE DEPARTMENT MAY WAIVE
9 THE PENALTY IMPOSED UNDER SUBSECTION (7)(b) OF THIS SECTION.

10 (e) A QUALIFIED TAXPAYER THAT FAILS TO PAY THE TAX CREDIT
11 SALE PROCEEDS WITHIN THE TIME SPECIFIED MAY AVOID THE IMPOSITION
12 OF THE PENALTY BY TRANSFERRING THE ALLOCATION OF TAX CREDITS TO
13 A NEW OR EXISTING QUALIFIED TAXPAYER WITHIN THIRTY DAYS AFTER THE
14 DUE DATE OF THE DEFAULTED INSTALLMENT. ANY TRANSFEREE OF AN
15 ALLOCATION OF TAX CREDITS OF A DEFAULTING QUALIFIED TAXPAYER
16 UNDER THIS SUBSECTION (7) SHALL AGREE TO PAY THE TAX CREDIT SALE
17 PROCEEDS WITHIN FIVE DAYS AFTER THE DATE OF THE TRANSFER.

18 (8) THE TAX CREDIT SALE PROCEEDS PROVIDED BY A QUALIFYING
19 TAXPAYER IN RETURN FOR A TAX CREDIT CERTIFICATE MUST BE DEPOSITED
20 IN THE SMALL BUSINESS RECOVERY FUND.

21 (9) (a) THE DEPARTMENT SHALL PROVIDE A REPORT TO THE
22 DIVISION OF INSURANCE IN THE DEPARTMENT OF REGULATORY AGENCIES
23 AND THE DEPARTMENT OF REVENUE FOR EACH FISCAL YEAR IN WHICH IT
24 ISSUES TAX CREDIT CERTIFICATES PURSUANT TO THIS PART 2 WITHIN
25 THIRTY DAYS OF THE CLOSE OF THE FISCAL YEAR. THE REPORT MUST
26 INCLUDE:

27 (I) THE NAME AND IDENTIFYING NUMBER ISSUED BY THE NATIONAL

1 ASSOCIATION OF INSURANCE COMMISSIONERS, OR ANY SUCCESSOR
2 ORGANIZATION, OF EACH QUALIFIED TAXPAYER TO WHICH THE
3 DEPARTMENT ISSUED A TAX CREDIT CERTIFICATE;

4 (II) THE TOTAL AMOUNT OF THE TAX CREDIT ALLOCATED TO THE
5 QUALIFIED TAXPAYER; AND

6 (III) THE SERIAL NUMBER OF THE TAX CREDIT CERTIFICATE ISSUED
7 TO THE QUALIFIED TAXPAYER.

8 (b) THE DEPARTMENT SHALL MAINTAIN RECORDS OF EACH TAX
9 CREDIT CERTIFICATE ISSUED, TRANSFERRED, OR ASSUMED THAT ARE
10 SUFFICIENT TO ALLOW THE DEPARTMENT OF REVENUE OR THE DIVISION OF
11 INSURANCE IN THE DEPARTMENT OF REGULATORY AGENCIES TO VERIFY
12 THE ISSUANCE AND OWNERSHIP OF THE CREDIT.

13 **24-36-207. Use of small business recovery tax credits - carry**
14 **over.** (1) FOR A TAX CREDIT CERTIFICATE ISSUED IN FISCAL YEAR
15 2020-21:

16 (a) IN CALENDAR YEAR 2026, THE QUALIFIED TAXPAYER MAY
17 CLAIM UP TO FIFTY PERCENT OF THE CREDIT AGAINST PREMIUM TAX
18 LIABILITY INCURRED FOR A TAXABLE YEAR THAT BEGINS ON OR AFTER
19 JANUARY 1, 2025; AND

20 (b) BEGINNING IN CALENDAR YEAR 2027, THE QUALIFIED
21 TAXPAYER MAY CLAIM THE REMAINING AMOUNT OF THE CREDIT AGAINST
22 PREMIUM TAX LIABILITY INCURRED FOR A TAXABLE YEAR THAT BEGINS ON
23 OR AFTER JANUARY 1, 2026.

24 (2) FOR A TAX CREDIT CERTIFICATE ISSUED IN FISCAL YEAR
25 2021-22, BEGINNING IN CALENDAR YEAR 2028, THE QUALIFIED TAXPAYER
26 MAY CLAIM THE CREDIT AGAINST PREMIUM TAX LIABILITY INCURRED FOR
27 A TAXABLE YEAR THAT BEGINS ON OR AFTER JANUARY 1, 2027.

1 (3) THE TOTAL CREDIT TO BE APPLIED BY A QUALIFIED TAXPAYER
2 IN ANY ONE YEAR MUST NOT EXCEED THE PREMIUM TAX LIABILITY OF THE
3 QUALIFIED TAXPAYER FOR THE TAXABLE YEAR. IF THE QUALIFIED
4 TAXPAYER CANNOT USE THE ENTIRE AMOUNT OF THE TAX CREDIT FOR THE
5 TAXABLE YEAR IN WHICH THE TAXPAYER IS ELIGIBLE FOR THE CREDIT, THE
6 EXCESS MAY BE CARRIED OVER TO SUCCEEDING TAXABLE YEARS AND
7 USED AS A CREDIT AGAINST THE PREMIUM TAX LIABILITY OF THE
8 TAXPAYER FOR THOSE TAXABLE YEARS; EXCEPT THAT THE CREDIT MAY
9 NOT BE CARRIED OVER TO ANY TAXABLE YEAR THAT BEGINS AFTER
10 DECEMBER 31, 2031. ANY AMOUNT OF THE CREDIT THAT IS NOT TIMELY
11 CLAIMED EXPIRES AND IS NOT REFUNDABLE.

12 (4) A QUALIFIED TAXPAYER CLAIMING A CREDIT UNDER THIS PART
13 2 SHALL SUBMIT THE TAX CREDIT CERTIFICATE WITH ITS TAX RETURN.

14 (5) A QUALIFIED TAXPAYER CLAIMING A TAX CREDIT UNDER THIS
15 PART 2 SHALL NOT BE REQUIRED TO PAY ANY ADDITIONAL OR
16 RETALIATORY TAX AS A RESULT OF CLAIMING THE CREDIT.

17 (6) IF A QUALIFIED TAXPAYER HOLDING AN UNCLAIMED TAX
18 CREDIT IS PART OF A MERGER, ACQUISITION, OR LINE OF BUSINESS
19 DIVESTITURE TRANSACTION, THE TAX CREDIT MAY BE TRANSFERRED TO
20 AND ASSUMED BY THE RESULTING ENTITY IF THE RESULTING ENTITY IS AN
21 INSURANCE COMPANY AUTHORIZED TO DO BUSINESS IN COLORADO THAT
22 HAS PREMIUM TAX LIABILITY. THE QUALIFIED TAXPAYER THAT
23 ORIGINALLY PURCHASED THE CREDIT AND THE RESULTING ENTITY SHALL
24 NOTIFY THE DEPARTMENT IN WRITING OF THE TRANSFER OR ASSUMPTION
25 OF THE CREDIT IN ACCORDANCE WITH PROCEDURES ADOPTED BY THE
26 DEPARTMENT. THE DEPARTMENT SHALL PROVIDE A COPY OF THE NOTICE
27 TO THE DIVISION OF INSURANCE IN THE DEPARTMENT OF REGULATORY

1 AGENCIES AND TO THE DEPARTMENT OF REVENUE AND SHALL MAINTAIN
2 A RECORD OF THE TRANSFER OR ASSUMPTION OF THE TAX CREDIT. THE
3 TRANSFER OR ASSUMPTION OF THE TAX CREDIT DOES NOT AFFECT THE
4 TIME SCHEDULE FOR CLAIMING THE TAX CREDIT AS PROVIDED IN THIS
5 SECTION.

6 **24-36-208. Small business recovery fund - repeal.** (1) THE
7 SMALL BUSINESS RECOVERY FUND IS HEREBY CREATED IN THE STATE
8 TREASURY. THE FUND CONSISTS OF:

9 (a) TAX CREDIT SALE PROCEEDS RECEIVED FROM QUALIFIED
10 TAXPAYERS AND DEPOSITED IN THE FUND PURSUANT TO SECTION
11 24-36-205;

12 (b) DISTRIBUTIONS, REVENUE, OR MONEY RETURNED TO THE STATE
13 FROM A LOAN PROGRAM ESTABLISHED PURSUANT TO SECTION 24-36-205
14 AND DEPOSITED IN THE FUND; AND

15 (c) ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY
16 APPROPRIATE OR TRANSFER TO THE FUND.

17 (2) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND
18 INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE
19 SMALL BUSINESS RECOVERY FUND TO THE FUND.

20 (3) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE
21 DEPARTMENT FOR THE PURPOSES SPECIFIED IN THIS PART 2. THE
22 DEPARTMENT MAY EXPEND MONEY IN THE FUND TO PAY FOR ITS DIRECT
23 AND INDIRECT COSTS IN IMPLEMENTING AND ADMINISTERING THIS PART 2.

24 (4) BEGINNING IN FISCAL YEAR 2025-26, THE STATE TREASURER
25 SHALL CREDIT ANY UNEXPENDED AND UNENCUMBERED MONEY REMAINING
26 IN THE FUND AT THE END OF A FISCAL YEAR TO THE GENERAL FUND.

27 (5) THE STATE TREASURER SHALL TRANSFER ALL UNEXPENDED

1 AND UNENCUMBERED MONEY IN THE FUND AT THE END OF THE FISCAL
2 YEAR ON JUNE 30, 2029, TO THE GENERAL FUND.

3 (6) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2029.

4 **24-36-209. Office of economic development.** THE OFFICE OF
5 ECONOMIC DEVELOPMENT SHALL ASSIST THE STATE TREASURER AND THE
6 DEPARTMENT IN IMPLEMENTING THIS PART 2.

7 **24-36-210. Repeal of part.** THIS PART 2 IS REPEALED, EFFECTIVE
8 DECEMBER 31, 2033.

9 **SECTION 2.** In Colorado Revised Statutes, 24-75-402, **add**
10 (5)(qq) as follows:

11 **24-75-402. Cash funds - limit on uncommitted reserves -**
12 **reduction in the amount of fees - exclusions - repeal.**

13 (5) Notwithstanding any provision of this section to the contrary, the
14 following cash funds are excluded from the limitations specified in this
15 section:

16 (qq) THE SMALL BUSINESS RECOVERY FUND CREATED IN SECTION
17 24-36-208.

18 **SECTION 3. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, or safety.