

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

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

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.*

HOUSE
3rd Reading Unamended
June 9, 2020

HOUSE
Amended 2nd Reading
June 8, 2020

<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.

The department is authorized to issue insurance premium tax credits to insurance companies that are authorized to do business in Colorado and incur premium tax liability, subject to procedures established by the department. The department may contract or consult with an independent third party to manage the bidding process. The department is required to issue a tax credit certificate to each successful purchaser. The department is authorized to issue up to \$40 million in tax credit certificates in fiscal year 2020-21. The department is authorized to issue up to an additional \$28 million in tax credits in fiscal year 2021-22, unless an equivalent amount of federal money is appropriated or allocated to the program.

A qualified taxpayer may claim the tax credit against its premium tax liability. For a tax credit certificate issued in fiscal year 2020-21, the qualified taxpayer may claim up to 50% of the credit in calendar year 2026, and may claim the remaining amount of the credit beginning in calendar year 2027. For a tax credit certificate issued in fiscal year 2021-22, the qualified taxpayer may claim the credit beginning in calendar year 2028. The amount of the credit claimed cannot exceed the taxpayer's premium tax liability for a given year. The unused amount carries forward and may be claimed in subsequent years; except that a credit cannot be claimed for premium tax liability incurred in a taxable year that begins after December 31, 2031.

The bill creates the small business recovery fund in the treasury. The fund consists of tax credit sale proceeds, any revenues, disbursements, or money returned to the state from the loan program, and any other money the general assembly appropriates or transfers to the fund. The money in the fund is continuously appropriated to the department to implement the loan program and to pay for the department's direct and indirect costs in administering the loan program and in issuing the tax credits. Beginning in fiscal year 2025-26, the treasurer must credit any unexpended and unencumbered money remaining in the fund at the end of a fiscal year to the general fund. The fund is repealed on July 1, 2029, and all unexpended and unencumbered money remaining in the fund is transferred to the general fund.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 2 to article
3 36 of title 24 as follows:

4 **PART 2**

5 **SMALL BUSINESS RECOVERY LOAN PROGRAM**

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 ■ FUND OF OVER ONE HUNDRED MILLION DOLLARS
16 TO STIMULATE LOANS FROM LENDING INSTITUTIONS DOING BUSINESS IN
17 COLORADO TO COLORADO SMALL BUSINESSES TO SUPPORT THE STATE'S
18 RECOVERY AND RESILIENCY FROM THE EFFECTS OF THE COVID-19
19 PANDEMIC;

20 (j) THERE IS A WELL-FUNCTIONING NETWORK OF RESPECTED
21 LENDING INSTITUTIONS ACROSS THE STATE WHO ARE COMMITTED TO THE
22 HEALTH OF COLORADO'S ECONOMY AND WANT TO CONTRIBUTE THEIR
23 EXPERTISE AND COMMUNITY RELATIONSHIPS TO SUPPORT THE SUCCESS OF
24 COLORADO'S SMALL BUSINESS COMMUNITY;

25 (k) THE STATE WILL RELY ON THOSE LENDING INSTITUTIONS AS
26 ESSENTIAL PARTNERS IN A SMALL BUSINESS RECOVERY LOAN PROGRAM;
27 AND

1 (1) AUTHORIZING THE CREATION OF A SMALL BUSINESS RECOVERY
2 LOAN PROGRAM SEEDED BY MONEY PROVIDED BY THE STATE WILL
3 SUPPORT COLORADO SMALL BUSINESSES AFFECTED BY THE COVID-19
4 CRISIS AND ASSIST IN THE OVERALL ECONOMIC RECOVERY OF THE STATE.

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

6 (a) WHILE THE LOAN PROGRAM AUTHORIZED BY THIS PART 2 WILL
7 BE PREDOMINATELY CAPITALIZED BY PRIVATE SECTOR INVESTMENTS, THE
8 LIMITED USE OF STATE MONEY OBTAINED THROUGH THE SALE OF
9 INSURANCE PREMIUM TAX CREDITS THAT WILL RESULT IN FUTURE STATE
10 TAX EXPENDITURES INCURRED FOR THE PURPOSE OF SUPPORTING THE
11 PROGRAM WILL, UNDER THE CURRENT ECONOMIC CONDITIONS, RESULT IN
12 THE FORMATION OF MORE PRIVATE CAPITAL AT BETTER TERMS FOR SMALL
13 BUSINESS BORROWERS THAN WOULD OTHERWISE BE AVAILABLE;

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

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

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

26 (e) SUPPORTING THE STATE'S RECOVERY FROM THE CRISIS CAUSED
27 BY COVID-19 IS THE PRIMARY PURPOSE OF THE LOAN PROGRAM AND

1 OUTWEIGHS ANY BENEFIT TO PRIVATE INDIVIDUALS OR ENTITIES.

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

3 (a) THE INSURANCE PREMIUM TAX CREDITS AUTHORIZED BY THIS
4 PART 2 AS A METHOD TO PROVIDE MONEY TO THE LOAN PROGRAM ARE
5 AVAILABLE ONLY TO INSURANCE COMPANIES THAT INCUR PREMIUM TAX
6 LIABILITY IN THE STATE;

7 (b) THE TAX CREDITS CAN ONLY BE USED BY AN INSURANCE
8 COMPANY TO OFFSET TAX LIABILITY ACTUALLY INCURRED BY THE
9 INSURANCE COMPANY;

10 (c) THE TAX CREDITS ARE NOT REFUNDABLE AND DO NOT IMPOSE
11 AN OBLIGATION OF PAYMENT IN ANY FUTURE YEAR UPON THE STATE;

12 (d) THE USE OF PROCEEDS FROM THE SALE OF INSURANCE PREMIUM
13 TAX CREDITS TO SEED THE LOAN PROGRAM ALLOWS THE STATE TO
14 ACCOMPLISH THIS IMPORTANT PUBLIC PURPOSE THROUGH THE USE OF
15 FUTURE TAX EXPENDITURES AND THEREFORE:

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

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

23 **24-36-203. Definitions.** AS USED IN THIS PART 2, UNLESS THE
24 CONTEXT OTHERWISE REQUIRES:

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

27 (2) "CONTRACT" MEANS A CONTRACT ENTERED INTO BY THE STATE

- 1 TREASURER IN ACCORDANCE WITH SECTION 24-36-205 (1).
- 2 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF THE TREASURY.
- 3 (4) "ELIGIBLE BORROWER" MEANS A BUSINESS THAT, AS
- 4 DETERMINED BY THE OVERSIGHT BOARD:
- 5 (a) HAS ITS PRINCIPAL PLACE OF BUSINESS IN THE STATE;
- 6 (b) HAS AT LEAST FIVE BUT FEWER THAN ONE HUNDRED
- 7 EMPLOYEES;
- 8 (c) CAN DEMONSTRATE THAT IT HAD AT LEAST TWO CONSECUTIVE
- 9 YEARS OF POSITIVE CASH FLOW PRIOR TO FEBRUARY 29, 2020; AND
- 10 (d) CAN DEMONSTRATE THAT IT HAD A DEBT-SERVICE COVERAGE
- 11 RATIO AS OF FEBRUARY 29, 2020, OF AT LEAST ONE-TO-ONE OR A HIGHER
- 12 LEVEL AS DETERMINED BY THE OVERSIGHT BOARD.
- 13 (5) "LOAN PROGRAM" MEANS A SMALL BUSINESS RECOVERY LOAN
- 14 PROGRAM ESTABLISHED IN ACCORDANCE WITH SECTION 24-36-205.
- 15 (6) "LOAN PROGRAM MANAGER" MEANS AN ENTITY THE STATE
- 16 TREASURER CONTRACTS WITH TO ESTABLISH AND ADMINISTER THE LOAN
- 17 PROGRAM IN ACCORDANCE WITH SECTION 24-36-205 (2).
- 18 (7) "OFFICE OF ECONOMIC DEVELOPMENT" MEANS THE COLORADO
- 19 OFFICE OF ECONOMIC DEVELOPMENT CREATED IN SECTION 24-48.5-101.
- 20 (8) "OVERSIGHT BOARD" MEANS THE SMALL BUSINESS RECOVERY
- 21 LOAN PROGRAM OVERSIGHT BOARD CREATED IN SECTION 24-36-204.
- 22 (9) "PREMIUM TAX LIABILITY" MEANS THE LIABILITY IMPOSED BY
- 23 SECTION 10-3-209 OR 10-6-128, OR, IN THE CASE OF A REPEAL OR
- 24 REDUCTION BY THE STATE OF THE LIABILITY IMPOSED BY SECTION
- 25 10-3-209 OR 10-6-128, ANY OTHER TAX LIABILITY IMPOSED UPON AN
- 26 INSURANCE COMPANY BY THE STATE.
- 27 (10) "QUALIFIED TAXPAYER" MEANS AN INSURANCE COMPANY

1 AUTHORIZED TO DO BUSINESS IN COLORADO THAT HAS PREMIUM TAX
2 LIABILITY OWING TO THE STATE AND THAT PURCHASES A TAX CREDIT
3 UNDER THIS PART 2. "QUALIFIED TAXPAYER" ALSO INCLUDES AN
4 INSURANCE COMPANY THAT RECEIVES OR ASSUMES A TAX CREDIT
5 TRANSFERRED IN ACCORDANCE WITH SECTION 24-36-206 (7)(e) OR
6 24-36-207 (6).

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

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

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

15 **24-36-204. Small business recovery loan program oversight**
16 **board - creation - report - repeal.** (1) THE SMALL BUSINESS RECOVERY
17 LOAN PROGRAM OVERSIGHT BOARD IS HEREBY CREATED IN THE
18 DEPARTMENT TO HELP ESTABLISH AND OVERSEE THE TERMS AND
19 CONDITIONS OF A CONTRACT OR CONTRACTS THROUGH WHICH THE
20 TREASURER MAY PROVIDE FIRST LOSS CAPITAL TO A LOAN PROGRAM OR
21 THE COLORADO CREDIT RESERVE. THIS SECTION DOES NOT PROHIBIT A
22 LOAN PROGRAM MANAGER OF A SPECIFIC LOAN PROGRAM OR THE
23 COLORADO CREDIT RESERVE FROM ESTABLISHING A SEPARATE
24 INVESTMENT ADVISORY COMMITTEE FOR THAT LOAN PROGRAM.

25 (2) (a) THE OVERSIGHT BOARD CONSISTS OF FIVE MEMBERS, AS
26 FOLLOWS:

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

1 (II) THE DIRECTOR OF THE MINORITY BUSINESS OFFICE CREATED IN
2 SECTION 24-49.5-102, ON BEHALF OF THE OFFICE OF ECONOMIC
3 DEVELOPMENT, OR THE DIRECTOR'S DESIGNEE;

4 (III) ONE MEMBER APPOINTED BY THE SPEAKER OF THE HOUSE OF
5 REPRESENTATIVES;

6 (IV) ONE MEMBER APPOINTED BY THE PRESIDENT OF THE SENATE;
7 AND

8 (V) ONE MEMBER APPOINTED BY THE GOVERNOR.

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

11 (c) THE MEMBERS APPOINTED PURSUANT TO SUBSECTION (2)(a) OF
12 THIS SECTION MUST HAVE SUBSTANTIAL PRIVATE SECTOR EXPERIENCE IN
13 COMMERCIAL BANKING OR CAPITAL MARKET ACTIVITIES AND MUST HAVE
14 OBTAINED EXECUTIVE LEVEL POSITIONS IN THESE INDUSTRIES.

15 (d) THE CHAIR OF THE GOVERNOR'S COUNCIL ON ECONOMIC
16 STABILIZATION AND GROWTH AND THE CO-CHAIRS OF THE COUNCIL'S
17 FINANCIAL SERVICES COMMITTEE SHALL CONSULT WITH AND PROVIDE
18 RECOMMENDATIONS ON INITIAL APPOINTMENTS TO THE APPOINTING
19 AUTHORITIES.

20 (3) EACH MEMBER OF THE OVERSIGHT BOARD WHO IS APPOINTED
21 PURSUANT TO SUBSECTION (2) OF THIS SECTION SERVES AT THE PLEASURE
22 OF THE OFFICIAL WHO APPOINTED THE MEMBER. THE TERM OF
23 APPOINTMENT IS THREE YEARS. AN APPOINTED MEMBER MAY SERVE
24 MULTIPLE TERMS. IN THE EVENT OF A VACANCY IN AN APPOINTED POSITION
25 ON THE OVERSIGHT BOARD, A NEW MEMBER SHALL BE APPOINTED IN THE
26 SAME MANNER AS PROVIDED IN SUBSECTIONS (2)(a)(III) TO (2)(a)(V) OF
27 THIS SECTION FOR THE UNEXPIRED PORTION OF THE TERM.

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

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

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

10 (7) THE OVERSIGHT BOARD IS A STATE PUBLIC BODY SUBJECT TO
11 PART 4 OF ARTICLE 6 OF THIS TITLE 24. IN ADDITION TO ANY OTHER
12 REQUIREMENTS, THE OVERSIGHT BOARD SHALL HOLD MEETINGS OPEN TO
13 THE PUBLIC, PUBLISH THE AGENDA FOR EACH MEETING IN ADVANCE, KEEP
14 AND PUBLISH MINUTES FROM EACH MEETING, PROVIDE ADVANCED
15 NOTIFICATION OF MEETING TIMES TO BANKING TRADE ASSOCIATIONS AND
16 OTHER GROUPS THAT REQUEST NOTIFICATION, AND RECEIVE WRITTEN AND
17 PUBLIC TESTIMONY AT EACH MEETING.

18 (8) THE OVERSIGHT BOARD'S ACTIVITIES WITH REGARD TO A
19 CONTRACT OR CONTRACTS FOR THE PROVISION OF STATE MONEY FOR A
20 LOAN PROGRAM ESTABLISHED IN ACCORDANCE WITH SECTION 24-36-205
21 INCLUDE, AT A MINIMUM:

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

24 (b) IN CONSULTATION WITH LENDING INDUSTRY LEADERS AND
25 REPRESENTATIVES OF SMALL BUSINESSES, DETERMINING SPECIFIC TERMS
26 APPLICABLE TO A LOAN PROGRAM AS REQUIRED IN SECTION 24-36-205,
27 WHICH TERMS MUST BE DESIGNED IN GOOD FAITH TO PROCURE THE

1 PARTICIPATION OF LENDING INSTITUTIONS AND BE CONSISTENT WITH
2 REGULATORY REQUIREMENTS AND UNDERWRITING CRITERIA, INCLUDING
3 THE DURATION OF THE GEOGRAPHIC RESTRICTION OF MONEY IN A LOAN
4 PROGRAM;

5 (c) PROVIDING GUIDANCE AND INPUT THROUGHOUT THE
6 IMPLEMENTATION OF A LOAN PROGRAM;

7 (d) ESTABLISHING AND PUBLISHING TARGETS FOR THE
8 PERCENTAGE OF LOANS SUPPORTED BY A LOAN PROGRAM THAT ARE MADE
9 TO BUSINESSES OWNED BY WOMEN, MINORITIES, AND VETERANS AND TO
10 BUSINESSES LOCATED IN RURAL COUNTIES. IN ESTABLISHING THE TARGETS
11 REQUIRED BY THIS SUBSECTION (8)(d), THE OVERSIGHT BOARD SHALL
12 CONSULT WITH THE MINORITY BUSINESS OFFICE WITHIN THE OFFICE OF THE
13 GOVERNOR AND THE DIVISION OF BUSINESS FUNDING AND INCENTIVES
14 WITHIN THE OFFICE OF ECONOMIC DEVELOPMENT;

15 (e) REGULARLY REVIEWING PROGRESS IN ACHIEVING THE TARGETS
16 ESTABLISHED PURSUANT TO SUBSECTION (8)(d) OF THIS SECTION AND
17 MAKING ADJUSTMENTS TO A LOAN PROGRAM TO HELP ACHIEVE THE
18 TARGETS IF NEEDED; AND

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

25 (9) THE OVERSIGHT BOARD SHALL CONSULT WITH SMALL
26 BUSINESSES IN ESTABLISHING THE CRITERIA FOR ELIGIBLE BORROWERS
27 PURSUANT TO SECTION 24-36-203 (4).

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

5 (11) A MEMBER OF THE OVERSIGHT BOARD MAY ASSIST IN RAISING
6 MONEY OR INVESTMENTS FOR A LOAN PROGRAM WITHOUT COMPENSATION.

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

22 (b) THE REPORT MUST INCLUDE, AT A MINIMUM, INFORMATION ON
23 THE FOLLOWING:

- 24 (I) THE NUMBER AND SIZE OF LOANS MADE;
- 25 (II) THE GEOGRAPHIC DISTRIBUTION OF LOANS MADE;
- 26 (III) THE DISTRIBUTION OF LOANS MADE BY BUSINESS SECTOR;
- 27 (IV) THE DEMOGRAPHICS OF THE OWNERS OF THE BUSINESSES

1 RECEIVING LOANS, INCLUDING THE NUMBER OF BUSINESSES OWNED BY
2 WOMEN, MINORITIES, AND VETERANS;

3 (V) THE NUMBER OF LOANS MADE TO RURAL BUSINESSES;

4 (VI) THE SIZE OF THE BUSINESSES RECEIVING LOANS;

5 (VII) THE NUMBER OF PEOPLE EMPLOYED BY THE BUSINESSES
6 RECEIVING LOANS;

7 (VIII) DISTRIBUTIONS OR REVENUE RECEIVED BY THE STATE FROM
8 THE PROGRAM;

9 (IX) THE FINANCIAL PERFORMANCE OF THE FUND;

10 (X) THE DEFAULT RATES FOR LOANS MADE BY THE PROGRAM;

11 (XI) BORROWER INTEREST RATES ON THE LOANS AND AN
12 EXPLANATION OF HOW THE RATES COMPLY WITH THE REQUIREMENTS OF
13 SECTION 24-36-205 (4)(b)(V); AND

14 (XII) ANY OTHER INFORMATION REQUESTED BY THE CHAIR OF THE
15 JOINT BUDGET COMMITTEE, THE BUSINESS AFFAIRS AND LABOR
16 COMMITTEE OF THE HOUSE OF REPRESENTATIVES OR ANY SUCCESSOR
17 COMMITTEE, OR THE BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE OF
18 THE SENATE OR ANY SUCCESSOR COMMITTEE.

19 (c) THE OVERSIGHT BOARD SHALL MAKE A PRESENTATION TO A
20 JOINT MEETING OF THE BUSINESS AFFAIRS AND LABOR COMMITTEE OF THE
21 HOUSE OF REPRESENTATIVES AND THE BUSINESS, LABOR, AND
22 TECHNOLOGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR
23 COMMITTEES, AT LEAST ONCE EACH FISCAL YEAR OR MORE OFTEN IF
24 REQUESTED BY THE CHAIRS OF THE COMMITTEES.

25 (13) THIS SECTION IS REPEALED, EFFECTIVE JUNE 30, 2029.

26 **24-36-205. Small business recovery loan program - creation -**
27 **requirements - oversight.** (1) (a) THE STATE TREASURER IS AUTHORIZED

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

3 (b) THE PURPOSE OF THE LOAN PROGRAM IS TO SUPPORT THE
4 STATE'S RECOVERY FROM THE ECONOMIC CRISIS CAUSED BY COVID-19
5 THROUGH LEVERAGING PRIVATE INVESTMENT TO SUPPORT COLORADO
6 SMALL BUSINESSES RECOVERING FROM THE CRISIS CAUSED BY COVID-19
7 BY MAKING LOANS, ACQUIRING PARTICIPATION INTEREST IN LOANS,
8 LEVERAGING PRIVATE SMALL BUSINESS LENDING THROUGH THE
9 COLORADO CREDIT RESERVE PROGRAM, OR OTHER ACTIVITIES THAT
10 ACCOMPLISH THE SAME PURPOSE. THE LOAN PROGRAM SHALL ONLY MAKE
11 LOANS DIRECTLY IF FEDERAL OR STATE BANK REGULATORS PROHIBIT THE
12 BANKING INDUSTRY FROM ORIGINATING LOANS FOR THE LOAN PROGRAM.

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

26 (3)(a) NOTWITHSTANDING ANY RESTRICTION ON THE INVESTMENT
27 OF STATE MONEY SET FORTH IN SECTION 24-36-113 OR IN ANY OTHER

1 PROVISION OF LAW, SUBJECT TO THE AVAILABILITY OF MONEY IN THE
2 SMALL BUSINESS RECOVERY FUND AND THE REQUIREMENTS OF THIS PART
3 2:

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

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

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

26 (4) ANY CONTRACT FOR THE ADMINISTRATION OF A LOAN
27 PROGRAM MUST INCLUDE THE FOLLOWING TERMS IN ORDER TO RECEIVE

1 MONEY PROVIDED BY THE STATE TREASURER PURSUANT TO SUBSECTION
2 (3) OF THIS SECTION:

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

14 (b) EXCEPT FOR MONEY CONTRIBUTED TO THE COLORADO CREDIT
15 RESERVE, ONCE THE MONEY IN A TRANCHE IS MATCHED IN ACCORDANCE
16 WITH SUBSECTION (4)(a) OF THIS SECTION, IT MUST BE USED TO MAKE
17 LOANS OR PURCHASE PARTICIPATION INTEREST IN LOANS FOR WORKING
18 CAPITAL TO ELIGIBLE BORROWERS, OR OTHER ACTIVITIES THAT
19 ACCOMPLISH THE SAME PURPOSE. THE OVERSIGHT BOARD SHALL CONSULT
20 WITH LENDING INDUSTRY LEADERS AND REPRESENTATIVES OF SMALL
21 BUSINESSES WITH REGARD TO SUBSECTIONS (4)(b)(I) TO (4)(b)(VI) OF THIS
22 SECTION. EACH LOAN MUST BE SUBJECT TO THE FOLLOWING TERMS:

23 (I) THE LOAN MUST BE IN AN AMOUNT OF AT LEAST THIRTY
24 THOUSAND DOLLARS BUT NOT MORE THAN FIVE HUNDRED THOUSAND
25 DOLLARS, AS DETERMINED BY THE OVERSIGHT BOARD;

26 (II) THE LOAN MUST HAVE A MAXIMUM INITIAL MATURITY OF
27 FIVE YEARS, BASED ON THE NEED OF THE ELIGIBLE BORROWER, WITH NO

1 PENALTY FOR PREPAYMENT, AS DETERMINED BY THE OVERSIGHT BOARD.
2 THE ORIGINATING LENDER MAY EXTEND THE TERM FOR PURPOSES OF
3 RESTRUCTURING THE LOAN.

4 (III) THE PRINCIPAL MUST BE AMORTIZED OVER THE TERM OF THE
5 LOAN OR A LONGER PERIOD, AS DETERMINED BY THE OVERSIGHT BOARD;

6 (IV) PRINCIPAL AND INTEREST PAYMENTS MAY BE DEFERRED FOR
7 UP TO ONE YEAR, AS DETERMINED BY THE OVERSIGHT BOARD, WITH THE
8 UNPAID INTEREST BEING CAPITALIZED. DEFERRALS MUST BE LIMITED TO
9 CIRCUMSTANCES OF HARDSHIP CREATED BY THE COVID-19 PANDEMIC.

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

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

18 (c) (I) IN ORDER TO ENSURE GEOGRAPHIC EQUITY, EACH TRANCHE
19 OF LOAN FUNDING MUST BE SUBJECT TO AN INITIAL PERIOD OF TIME IN
20 WHICH A PORTION OF THE MONEY IS ALLOCATED TO EACH COUNTY ON A
21 BASIS PROPORTIONAL TO THE COUNTY'S SHARE OF SMALL BUSINESSES
22 RELATIVE TO THE STATE, THE COUNTY'S SHARE OF SMALL BUSINESS
23 EMPLOYEES RELATIVE TO THE STATE, THE COUNTY'S SHARE OF SMALL
24 BUSINESS PERSONAL PROPERTY RELATIVE TO THE STATE, OR OTHER
25 SIMILAR METRICS AS DETERMINED BY THE OVERSIGHT BOARD, OR BASED
26 ON A FORMULA ESTABLISHED UNDER SUBSECTION (4)(c)(IV) OF THIS
27 SECTION. THE MONEY ALLOCATED TO EACH COUNTY MUST BE RESERVED

1 FOR APPLICATIONS FROM ELIGIBLE BORROWERS LOCATED IN THAT COUNTY
2 FOR THE INITIAL PERIOD OF TIME. FOR THE PURPOSES OF THIS SUBSECTION
3 (4)(c), AN ELIGIBLE BORROWER IS CONSIDERED TO BE LOCATED IN THE
4 COUNTY IN WHICH IT HAS ITS PRINCIPAL PLACE OF BUSINESS, AS
5 REFLECTED IN ITS MOST RECENT FILING WITH THE SECRETARY OF STATE OR
6 SUBJECT TO SUCH OTHER DOCUMENTATION AS THE OVERSIGHT BOARD
7 ESTABLISHES. THE OVERSIGHT BOARD SHALL DETERMINE THE AMOUNT OF
8 TIME IN WHICH THE MONEY IN EACH TRANCHE IS SUBJECT TO A
9 GEOGRAPHIC RESTRICTION UNDER THIS SUBSECTION (4)(c)(I).

10 (II) ONCE THE TIME PERIOD ESTABLISHED BY THE OVERSIGHT
11 BOARD UNDER SUBSECTION (4)(c)(I) OF THIS SECTION HAS PASSED, ALL
12 MONEY REMAINING IN THE TRANCHE IS AVAILABLE TO ELIGIBLE
13 BORROWERS ON A STATEWIDE BASIS.

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

18 (IV) FOR ANY TRANCHE OF LOAN FUNDING, THE OVERSIGHT BOARD
19 MAY, IN ITS DISCRETION, ESTABLISH AN ALTERNATIVE FORMULA FOR THE
20 ALLOCATION OF FUNDS TO COUNTIES FOR PURPOSES OF SUBSECTION
21 (4)(c)(I) OF THIS SECTION THAT ACCOUNTS FOR HOW AFFECTED EACH
22 COUNTY HAS BEEN BY THE COVID-19 PANDEMIC AND ITS IMPACTS.

23 (d) (I) A LOAN PROGRAM MANAGER SHALL MAKE EVERY EFFORT
24 TO ACHIEVE TARGETS PUBLISHED BY THE OVERSIGHT BOARD PURSUANT TO
25 SECTION 24-36-204 (8)(d) FOR THE PERCENTAGE OF LOANS SUPPORTED BY
26 THE PROGRAM THAT ARE MADE TO BUSINESSES OWNED BY WOMEN,
27 MINORITIES, AND VETERANS AND TO BUSINESSES LOCATED IN RURAL

1 COUNTIES. A LOAN PROGRAM MANAGER SHALL CONSULT WITH THE
2 MINORITY BUSINESS OFFICE WITHIN THE OFFICE OF THE GOVERNOR AND
3 THE DIVISION OF BUSINESS FUNDING AND INCENTIVES WITHIN THE OFFICE
4 OF ECONOMIC DEVELOPMENT TO DEVELOP AN OUTREACH STRATEGY FOR
5 MARKETING THE LOAN PROGRAM TO BUSINESSES OWNED BY WOMEN,
6 MINORITIES, AND VETERANS AND BUSINESSES LOCATED IN RURAL
7 COUNTIES.

8 (II) FOR MONEY CONTRIBUTED TO THE COLORADO CREDIT
9 RESERVE, THE OVERSIGHT BOARD MAY WAIVE THE REQUIREMENTS OF THIS
10 SUBSECTION (4)(d) OR MAY ESTABLISH ALTERNATIVE TARGETS FOR THE
11 PERCENTAGE OF LOANS SUPPORTED BY THE PROGRAM THAT ARE MADE TO
12 BUSINESSES OWNED BY WOMEN, MINORITIES, AND VETERANS AND TO
13 BUSINESSES LOCATED IN RURAL COUNTIES.

14 (e) A LOAN PROGRAM MANAGER SHALL WORK WITH THE DIVISION
15 OF BUSINESS FUNDING AND INCENTIVES WITHIN THE OFFICE OF ECONOMIC
16 DEVELOPMENT TO ALIGN THE PROGRAM WITH OTHER ACCESS TO CAPITAL
17 PROGRAMS IN THE STATE.

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

23 (6) DISTRIBUTIONS OR REVENUE PAID TO THE STATE PURSUANT TO
24 A CONTRACT UNDER THIS SECTION SHALL BE DEPOSITED IN THE SMALL
25 BUSINESS RECOVERY FUND; EXCEPT THAT, IF SUCH DISTRIBUTIONS OR
26 REVENUE ARE PAID AFTER THE SMALL BUSINESS RECOVERY FUND IS
27 REPEALED, THE MONEY SHALL BE PAID TO THE STATE TREASURER, WHO

1 SHALL CREDIT THE MONEY TO THE GENERAL FUND.

2 (7) THE LOAN PROGRAM MANAGER SHALL REPORT ON THE
3 IMPLEMENTATION OF THE LOAN PROGRAM TO THE OVERSIGHT BOARD AT
4 LEAST QUARTERLY, WITHIN ONE MONTH AFTER THE END OF EACH
5 CALENDAR QUARTER, OR MORE OFTEN IF REQUESTED BY THE OVERSIGHT
6 BOARD. THE REPORTS MUST INCLUDE THE INFORMATION NECESSARY TO
7 ALLOW THE BOARD TO PROVIDE THE REPORTS REQUIRED IN SECTION
8 24-36-204 (12), AND ANY ADDITIONAL INFORMATION REQUESTED BY THE
9 BOARD.

10 **24-36-206. Small business recovery tax credits - authorization**
11 **to issue - terms - report.** (1) A QUALIFIED TAXPAYER MAY PURCHASE
12 SMALL BUSINESS RECOVERY TAX CREDITS FROM THE DEPARTMENT IN
13 ACCORDANCE WITH THIS SECTION AND MAY APPLY THE TAX CREDITS
14 AGAINST ITS PREMIUM TAX LIABILITY IN ACCORDANCE WITH SECTION
15 24-36-207.

16 (2) (a) THE DEPARTMENT IS AUTHORIZED TO ISSUE TAX CREDIT
17 CERTIFICATES TO QUALIFIED TAXPAYERS EQUAL TO THE LESSER OF A
18 TOTAL FACE VALUE OF UP TO FORTY MILLION DOLLARS OR TOTAL SALES
19 PROCEEDS OF UP TO THIRTY MILLION FIVE HUNDRED THOUSAND DOLLARS
20 IN FISCAL YEAR 2020-21.

21 (b) THE DEPARTMENT IS AUTHORIZED TO ISSUE TAX CREDIT
22 CERTIFICATES TO QUALIFIED TAXPAYERS EQUAL TO THE LESSER OF A
23 TOTAL FACE VALUE OF UP TO TWENTY-EIGHT MILLION DOLLARS OR TOTAL
24 SALES PROCEEDS OF UP TO TWENTY-ONE MILLION DOLLARS IN FISCAL YEAR
25 2021-22; EXCEPT THAT, IF MONEY RECEIVED BY THE STATE FROM THE
26 FEDERAL GOVERNMENT HAS BEEN APPROPRIATED, TRANSFERRED, OR
27 ALLOCATED TO THE FUND FOR THE PURPOSES OF THIS PART 2, THE VALUE

1 OF THE TAX SALES PROCEEDS THAT THE DEPARTMENT IS AUTHORIZED TO
2 RAISE UNDER THIS SUBSECTION (2)(b) IN FISCAL YEAR 2021-22 IS REDUCED
3 BY THE AMOUNT OF FEDERAL MONEY APPROPRIATED, TRANSFERRED, OR
4 ALLOCATED BY THE FUND.

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

8 (d) THE DEPARTMENT SHALL CONSULT WITH INSURANCE
9 COMPANIES IN ADVANCE OF ISSUING ANY TAX CREDITS IN ACCORDANCE
10 WITH THIS SECTION.

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

14 (4) USING PROCEDURES ADOPTED BY THE DEPARTMENT, OR, IF
15 APPLICABLE, BY AN INDEPENDENT THIRD PARTY, EACH INSURANCE
16 COMPANY THAT SUBMITS AN APPLICATION SHALL MAKE A TIMELY AND
17 IRREVOCABLE OFFER, CONTINGENT ONLY UPON THE DEPARTMENT'S
18 ISSUANCE TO THE INSURANCE COMPANY OF THE TAX CREDIT CERTIFICATES,
19 TO MAKE A SPECIFIED PURCHASE PAYMENT AMOUNT TO THE DEPARTMENT
20 ON DATES SPECIFIED BY THE DEPARTMENT. THE OFFER MUST INCLUDE ALL
21 OF THE FOLLOWING:

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

25 (b) THE QUALIFIED TAXPAYER'S PROPOSED TAX CREDIT PURCHASE
26 AMOUNT FOR EACH TAX CREDIT DOLLAR REQUESTED. THE MINIMUM
27 PROPOSED TAX CREDIT PURCHASE AMOUNT MUST BE EITHER:

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

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

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

11 (5) THE DEPARTMENT SHALL PROVIDE WRITTEN NOTICE TO EACH
12 INSURANCE COMPANY THAT SUBMITS AN APPLICATION INDICATING
13 WHETHER OR NOT THE INSURANCE COMPANY HAS BEEN APPROVED AS A
14 PURCHASER OF TAX CREDITS AND, IF SO, THE AMOUNT OF TAX CREDITS
15 ALLOCATED AND THE DATE BY WHICH PAYMENT OF THE TAX CREDIT SALE
16 PROCEEDS MUST BE MADE.

17 (6) ON RECEIPT OF PAYMENT OF THE SALE PROCEEDS, THE
18 DEPARTMENT SHALL ISSUE TO EACH QUALIFIED TAXPAYER A TAX CREDIT
19 CERTIFICATE. THE TAX CREDIT CERTIFICATE MUST STATE ALL OF THE
20 FOLLOWING:

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

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

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

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

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

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

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

8 (7) (a) THE DEPARTMENT SHALL NOT ISSUE A TAX CREDIT
9 CERTIFICATE TO ANY QUALIFIED TAXPAYER THAT FAILS TO PROVIDE THE
10 TAX CREDIT SALE PROCEEDS WITHIN THE TIME THE DEPARTMENT
11 SPECIFIES.

12 (b) A QUALIFIED TAXPAYER THAT FAILS TO PROVIDE THE TAX
13 CREDIT SALE PROCEEDS WITHIN THE TIME THE DEPARTMENT SPECIFIES IS
14 SUBJECT TO A PENALTY EQUAL TO TEN PERCENT OF THE AMOUNT OF THE
15 PURCHASE PRICE THAT REMAINS UNPAID. THE PENALTY MUST BE PAID TO
16 THE DEPARTMENT WITHIN THIRTY DAYS AFTER DEMAND.

17 (c) THE DEPARTMENT MAY OFFER TO REALLOCATE THE DEFAULTED
18 TAX CREDITS AMONG OTHER QUALIFIED TAXPAYERS, SO THAT THE RESULT
19 AFTER REALLOCATION IS THE SAME AS IF THE INITIAL ALLOCATION HAD
20 BEEN PERFORMED WITHOUT CONSIDERING THE TAX CREDIT ALLOCATION
21 TO THE DEFAULTING QUALIFIED TAXPAYER.

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

27 (e) A QUALIFIED TAXPAYER THAT FAILS TO PAY THE TAX CREDIT

1 SALE PROCEEDS WITHIN THE TIME SPECIFIED MAY AVOID THE IMPOSITION
2 OF THE PENALTY BY TRANSFERRING THE ALLOCATION OF TAX CREDITS TO
3 A NEW OR EXISTING QUALIFIED TAXPAYER WITHIN THIRTY DAYS AFTER THE
4 DUE DATE OF THE DEFAULTED INSTALLMENT. ANY TRANSFEREE OF AN
5 ALLOCATION OF TAX CREDITS OF A DEFAULTING QUALIFIED TAXPAYER
6 UNDER THIS SUBSECTION (7) SHALL AGREE TO PAY THE TAX CREDIT SALE
7 PROCEEDS WITHIN FIVE DAYS AFTER THE DATE OF THE TRANSFER.

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

11 (9) (a) THE DEPARTMENT SHALL PROVIDE A REPORT TO THE
12 DIVISION OF INSURANCE IN THE DEPARTMENT OF REGULATORY AGENCIES
13 ■ FOR EACH FISCAL YEAR IN WHICH IT ISSUES TAX CREDIT CERTIFICATES
14 PURSUANT TO THIS PART 2 WITHIN THIRTY DAYS OF THE CLOSE OF THE
15 FISCAL YEAR. THE REPORT MUST INCLUDE:

16 (I) THE NAME AND IDENTIFYING NUMBER ISSUED BY THE NATIONAL
17 ASSOCIATION OF INSURANCE COMMISSIONERS, OR ANY SUCCESSOR
18 ORGANIZATION, OF EACH QUALIFIED TAXPAYER TO WHICH THE
19 DEPARTMENT ISSUED A TAX CREDIT CERTIFICATE;

20 (II) THE TOTAL AMOUNT OF THE TAX CREDIT ALLOCATED TO THE
21 QUALIFIED TAXPAYER; AND

22 (III) THE SERIAL NUMBER OF THE TAX CREDIT CERTIFICATE ISSUED
23 TO THE QUALIFIED TAXPAYER.

24 (b) THE DEPARTMENT SHALL MAINTAIN RECORDS OF EACH TAX
25 CREDIT CERTIFICATE ISSUED, TRANSFERRED, OR ASSUMED THAT ARE
26 SUFFICIENT TO ALLOW ■ THE DIVISION OF INSURANCE IN THE
27 DEPARTMENT OF REGULATORY AGENCIES TO VERIFY THE ISSUANCE AND

1 OWNERSHIP OF THE CREDIT.

2 **24-36-207. Use of small business recovery tax credits - carry**
3 **over.** (1) FOR A TAX CREDIT CERTIFICATE ISSUED IN FISCAL YEAR
4 2020-21:

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

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

13 (2) FOR A TAX CREDIT CERTIFICATE ISSUED IN FISCAL YEAR
14 2021-22, BEGINNING IN CALENDAR YEAR 2028, THE QUALIFIED TAXPAYER
15 MAY CLAIM THE CREDIT AGAINST PREMIUM TAX LIABILITY INCURRED FOR
16 A TAXABLE YEAR THAT BEGINS ON OR AFTER JANUARY 1, 2027.

17 (3) THE TOTAL CREDIT TO BE APPLIED BY A QUALIFIED TAXPAYER
18 IN ANY ONE YEAR MUST NOT EXCEED THE PREMIUM TAX LIABILITY OF THE
19 QUALIFIED TAXPAYER FOR THE TAXABLE YEAR. IF THE QUALIFIED
20 TAXPAYER CANNOT USE THE ENTIRE AMOUNT OF THE TAX CREDIT FOR THE
21 TAXABLE YEAR IN WHICH THE TAXPAYER IS ELIGIBLE FOR THE CREDIT, THE
22 EXCESS MAY BE CARRIED OVER TO SUCCEEDING TAXABLE YEARS AND
23 USED AS A CREDIT AGAINST THE PREMIUM TAX LIABILITY OF THE
24 TAXPAYER FOR THOSE TAXABLE YEARS; EXCEPT THAT THE CREDIT MAY
25 NOT BE CARRIED OVER TO ANY TAXABLE YEAR THAT BEGINS AFTER
26 DECEMBER 31, 2031. ANY AMOUNT OF THE CREDIT THAT IS NOT TIMELY
27 CLAIMED EXPIRES AND IS NOT REFUNDABLE.

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

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

6 (6) IF A QUALIFIED TAXPAYER HOLDING AN UNCLAIMED TAX
7 CREDIT IS PART OF A MERGER, ACQUISITION, OR LINE OF BUSINESS
8 DIVESTITURE TRANSACTION, THE TAX CREDIT MAY BE TRANSFERRED TO
9 AND ASSUMED BY THE RESULTING ENTITY IF THE RESULTING ENTITY IS AN
10 INSURANCE COMPANY AUTHORIZED TO DO BUSINESS IN COLORADO THAT
11 HAS PREMIUM TAX LIABILITY. THE QUALIFIED TAXPAYER THAT
12 ORIGINALLY PURCHASED THE CREDIT AND THE RESULTING ENTITY SHALL
13 NOTIFY THE DEPARTMENT IN WRITING OF THE TRANSFER OR ASSUMPTION
14 OF THE CREDIT IN ACCORDANCE WITH PROCEDURES ADOPTED BY THE
15 DEPARTMENT. THE DEPARTMENT SHALL PROVIDE A COPY OF THE NOTICE
16 TO THE DIVISION OF INSURANCE IN THE DEPARTMENT OF REGULATORY
17 AGENCIES ■■■ AND SHALL MAINTAIN A RECORD OF THE TRANSFER OR
18 ASSUMPTION OF THE TAX CREDIT. THE TRANSFER OR ASSUMPTION OF THE
19 TAX CREDIT DOES NOT AFFECT THE TIME SCHEDULE FOR CLAIMING THE
20 TAX CREDIT AS PROVIDED IN THIS SECTION.

21 **24-36-208. Small business recovery fund - repeal.** (1) THE
22 SMALL BUSINESS RECOVERY FUND IS HEREBY CREATED IN THE STATE
23 TREASURY. THE FUND CONSISTS OF:

24 (a) TAX CREDIT SALE PROCEEDS RECEIVED FROM QUALIFIED
25 TAXPAYERS AND DEPOSITED IN THE FUND PURSUANT TO SECTION
26 24-36-205;

27 (b) DISTRIBUTIONS, REVENUE, OR MONEY RETURNED TO THE STATE

1 FROM A LOAN PROGRAM ESTABLISHED PURSUANT TO SECTION 24-36-205
2 AND DEPOSITED IN THE FUND; AND

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

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

8 (3) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE
9 DEPARTMENT FOR THE PURPOSES SPECIFIED IN THIS PART 2. THE
10 DEPARTMENT MAY EXPEND MONEY IN THE FUND TO PAY FOR ITS DIRECT
11 AND INDIRECT COSTS IN IMPLEMENTING AND ADMINISTERING THIS PART 2.

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

15 (5) THE STATE TREASURER SHALL TRANSFER ALL UNEXPENDED
16 AND UNENCUMBERED MONEY IN THE FUND AT THE END OF THE FISCAL
17 YEAR ON JUNE 30, 2029, TO THE GENERAL FUND.

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

19 **24-36-209. Office of economic development.** THE OFFICE OF
20 ECONOMIC DEVELOPMENT SHALL ASSIST THE STATE TREASURER AND THE
21 DEPARTMENT IN IMPLEMENTING THIS PART 2.

22 **24-36-210. Repeal of part.** THIS PART 2 IS REPEALED, EFFECTIVE
23 DECEMBER 31, 2033.

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

26 **24-75-402. Cash funds - limit on uncommitted reserves -**
27 **reduction in the amount of fees - exclusions - repeal.**

1 (5) Notwithstanding any provision of this section to the contrary, the
2 following cash funds are excluded from the limitations specified in this
3 section:

4 (qq) THE SMALL BUSINESS RECOVERY FUND CREATED IN SECTION
5 24-36-208.

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