

# DEPARTMENT OF THE TREASURY

David L. Young  
State Treasurer



Eric Rothaus  
Deputy Treasurer

## REQUEST FOR QUALIFICATIONS (RFQ) TO PROVIDE ADVISORY SERVICES OR BROKERAGE SERVICES TO THE STATE OF COLORADO TREASURER'S OFFICE FOR THE SALE OF STATE OF COLORADO DEFERRED INSURANCE PREMIUM TAX CREDITS

### I. INTRODUCTION

- A. In 2020, the Colorado General Assembly enacted HB20-1413 (attached hereto and codified at § 24-36-201, *et seq.*, C.R.S.) that authorized the State Treasurer to sell up to \$68 million in deferred state tax credits against state insurance premium tax liability (the 'Credits') to fund a small business loan program created in Treasury.
- B. The Credits are not transferable except in the case of merger or acquisition on the part of the state insurance premium taxpayer purchaser.
- C. The primary objective of the sale of the Credits is to maximize the net yield for the State. A secondary objective is to execute the sale in the most efficient and timely manner possible.
- D. The State Treasurer seeks proposals from companies to provide Advisory Services and/or to provide tax credit Brokerage Services to assist in the design, marketing and implementation of the sale of the Credits (the 'Sale').
- E. **Companies may respond in either capacity or present a proposal to provide the necessary services for both.**

**All proposals must be received at the State Treasurer's office by:  
October 6, 2020, 5:00pm MDT**

### II. SERVICES REQUESTED

- A. The Treasurer is inviting companies to submit responses to this RFQ to provide Advisory Services and/or Brokerage Services.
- B. The Treasurer is authorized to sell up to \$40 million in Credits in fiscal year 2020-21, which ends June 30, 2021. Additionally, the Treasurer is authorized to sell up to \$28 million in Credits in fiscal year 2021-22, which ends June 30, 2022. The term of engagement for companies selected pursuant to this RFQ will be through June 30, 2022 except that the Treasurer reserves the right to cancel the engagement at any time and/or engage additional companies during that period.

### III. MINIMUM QUALIFICATIONS

- A. Interested companies must have served as an advisor or broker/syndicator on a tax credit transaction of at least \$10,000,000 in the past three years.

- B. Interested companies must address the following requirements in an attachment to their proposal:
  - 1. The company must disclose any delinquent Colorado State or local tax or outstanding fee that has occurred in the previous three years.
  - 2. If the company is registered with the U.S. SEC as an investment adviser, your SEC file number, or if the company has a number assigned by the FINRA's CRD system, your CRD number. The company should summarize in an appendix to its proposal any pending or completed regulatory or judicial action from its U.S. SEC Form ADV (Parts 1, 2 and 3) that would directly affect the services requested in this RFQ.
  - 3. The company must disclose any litigation or regulatory investigation into the company regarding its provision of Advisory Services or Brokerage Services.
- C. Interested companies must certify in their proposal that they will not take any engagement that could result in a conflict of interest after selection, or if a larger company, how key personnel serving the State will be insulated from any company conflicts.
- D. Interested companies shall not submit joint proposals with other companies.
- E. Companies selected will be required to exercise professionalism and respect the confidential nature of certain discussions and decision making, which are considered "work product" prepared for an elected state official and are not a public record. Until the transactions are completed, the company shall keep such work product confidential and shall not disclose confidential information to outside parties.

#### **IV. SCOPE OF SERVICES**

- A. The selected company(s) will work closely with the State Treasurer's Office and the Governor's Office of Economic Development and International Trade (OEDIT) to provide the necessary services and assistance in effectively executing the Sale. The company(s) will provide advice and assistance on the Sale, which may include the following.

**Companies may respond in either capacity or present a proposal to provide the necessary services for both.**

**Advisory Services:** Taking a primary role in advising on the design and execution of a Credit sale, in all aspects, which may include but is not limited to:

- 1. Consulting with insurance companies on issues relevant to the sale
- 2. Developing a plan of work for executing the sale and working with the State to finalize the plan
- 3. Advising on any structuring options
- 4. Identifying any additional non-State professional service expertise necessary for the Sale and managing any related processes for identifying and procuring such services
- 5. Advising on options for a public offering as well as a private placement with one or more brokerage firms
- 6. If private placement, identifying the process to select the brokerage firm(s) and/or the investors for the sale

7. Providing a rationale for the number and identity of such brokerage firms
8. Providing the rationale for the number and identity of such investors
9. If a public offering, marketing the Credits to potential investors
10. Advising on pricing, including providing research and analysis of such pricing
11. Advising on the financial sufficiency of the form and content of legal documents
12. Working with the State Treasurer's team and OEDIT to execute the Sale
13. Identifying any additional responsibilities the company believes have been omitted from this list and explaining the reason for the inclusion and plan for fulfilling
14. Identifying any items on this list that the company will not fulfill and explaining, in detail, the reason for the exclusion

**Brokerage Services:** Taking a primary role in proposing and executing the placement of Credits with investors, which may include but is not limited to:

1. Consulting with insurance companies on issues relevant to the sale
2. Proposing the term of an exclusive private placement period of time for the company
3. Proposing the pricing for a private placement
4. Proposing the timing for a private placement
5. Managing the financial aspects of the legal documents
6. Detailing the investors that the broker would engage for investment and the plan for that engagement
7. Working with the State Treasurer's team and OEDIT to execute the sale
8. Identifying any additional responsibilities the company believes have been omitted from this list and explaining the reason for the inclusion and plan for fulfilling
9. Identifying any items on this scope list that the company will not fulfill and explaining, in detail, the reason for the exclusion

## **V. PROPOSAL FORMAT**

### **A. Overview**

1. Interested companies must limit their proposal to a maximum page limit of 15 pages, excluding the cover page and appendices.
2. In the response, clearly and prominently state the role—either Advisory Services, Brokerage Services or both—the company wishes to provide.
3. Briefly describe the company's business as it relates to tax credits, including company structure, office locations, the number of employees located in each office and the function(s) of the office.
4. Provide a primary contact for this RFQ and his or her phone number and email address.
5. Provide a list of at least three client references that are willing to discuss their experiences with the company. Clients with similar tax credits and public clients are preferred.

6. Provide the form and amount of the company's professional liability insurance coverage as an appendix.
7. Briefly discuss evidence of the company's commitment to diversity, equity and inclusiveness and the local community. Please provide a copy of the company's diversity, equity and inclusion policy in an appendix or exhibit to your response.

**B. Experience and Personnel for Participation in State Tax Credit Sales.**

1. Provide an organizational chart of the company or the applicable business function that deals with tax credits.
2. State the number of employees in the tax credit group with the related experience (in years) of each.
3. List the legal firms that currently do work for the applicable business function that handles tax credits.
4. List the accounting firms that currently do work for the applicable business function that handles tax credits.
5. List each federal and state entity that has underwritten, approved or allocated tax credits to the company.
6. Describe the company's experience with state tax credits and list the total amount of state tax credits that the company has placed (in the case of Brokerage Services respondents) or provided advisory services (in the case of Advisory Services respondents), or both, over the past five years. Experience shown should be work done by individuals who will be assigned to this project as well that of the company. Specific experience with state insurance premium tax credits, or deferred tax credits, should be highlighted.

**C. Proposed Statement of Work and Qualifications**

1. State your understanding of the services required by this RFQ.
2. Include a narrative description of the proposed services and a list of items to be delivered.
3. Describe the technical plan for accomplishing the work. Use the task descriptions in section IV of this RFQ as your reference point. Additional tasks may be proposed and responses may also exclude tasks listed but changes must include sufficient information to justify them.
4. Describe your company's financial stability and capacity to perform the project requirements. If responding to provide Brokerage Services, provide your company's financial statements for the past three fiscal years as an appendix. The State reserves the right to request additional information it deems necessary to evaluate a respondent's financial capacity.
5. If responding to provide Brokerage Services, state the total amount of the Credits your company proposes to broker and a rationale for the amount. State whether your company would be interested in participating in the Sale if it were assigned fewer credits than proposed.
6. If responding to provide Brokerage Services, state whether company is in compliance with MSRB Rule G-37, and if any regulatory inquiry have been made regarding the company, or if litigation . If yes, please describe regulatory inquiry and outcome of the inquiry.

7. If responding to Advisory Services, any litigation or regulatory investigation regarding company's financial advisor services.
8. To ensure continuity of operations during an emergency, including a pandemic, provide the following information in an appendix:
  - b) Describe how you anticipate such a crisis would impact your operations
  - c) Describe your emergency response continuity of operations plan and how your plan addresses the following aspects of pandemic preparedness:
    - (1) Employee training (describe your organization's training plan, and how frequently your plan will be shared with employees)
    - (2) Identified essential business functions and key employees (within your organization) necessary to carry them out
    - (3) Contingency plans for:
      - (a) How your organization will handle staffing issues when a portion of key employees are incapacitated due to illness
      - (b) How employees in your organization will carry out the essential functions if a pandemic or emergency prevents them from coming to the primary workplace
    - (4) How your organization will communicate with staff and suppliers when primary communications systems are overloaded or otherwise fail, including key contacts, chain of communications (including suppliers), etc.
    - (5) How effectively your emergency plan has functioned during the 2020 COVID-19 pandemic, including any changes your company intends to implement in response to the 2020 experience

D. Fees:

Please provide your proposed cost of services described in this RFQ: The proposed cost may be presented as:

1. A flat fee;
2. A percentage of the gross proceeds from the sale of the tax credits; or
3. A combination of 1 and 2.

In a separate line, list any outside fees or expenses necessary to provide services for this RFQ. Include these costs in the Total.

Total cost should be shown as one figure. If all or a portion of the cost is based on a percentage of the gross proceeds from the sale of the tax credits, the respondent must specify the maximum amount of gross proceeds it expects to achieve and use the maximum amount to calculate the percentage cost figure.

Regardless of the cost structure submitted, the firm must provide information sufficient to support the cost presented.

## VI. EVALUATION PROCESS

- A. The proposals will be reviewed by a group of evaluators and may include one or more persons from outside Treasury. The group will evaluate all proposals and categorize each and then rank each proposal.

- B. The evaluation process may include informal interviews of highly ranked companies.
- C. The rankings will be presented to the Treasurer for his selection.
- D. Conformance with the minimum qualifications specified in this RFQ is a prerequisite for evaluation.
- E. The evaluation factors will include:
  - 1. The quality and substance of the firm's presentation in its proposal.
  - 2. Prior experience and success in providing similar services. Special consideration will be given to similar credits, sales and clients (i.e. state or public clients). This may include input from listed references to Treasury in each of the Four Major Categories and Any Other Category and the firm's commitment of resources.
  - 3. The fees proposed by the company compared to the experience of the firm and assigned professionals and quality of the proposal. Although the fees presented are an important evaluation criterion, a company whose proposed fee exceeds the fees proposed by other companies may receive a higher ranking based upon qualitative factors.

## **VII. ENGAGEMENT:**

- A. Companies selected pursuant to this RFQ will enter into a contract with Treasury.
- B. The term of engagement for companies selected pursuant to this RFQ will be through June 30, 2022 except that the Treasurer reserves the right to cancel the engagement at any time and/or engage additional companies during that period.
- C. Companies must be able to commence work immediately upon selection.

## **VIII. ADMINISTRATIVE INFORMATION**

- A. If a company is selected, it shall neither take a position contrary to the State, nor represent any client whose interests are in conflict with the State on the transaction. The company must disclose any relationship or compensation arrangement that could create or appear to create a conflict of interest with any entity involved in the proposed transaction, and the company's procedures for addressing any potential conflicts.
- B. By submitting a proposal, the company certifies that it fully understands the services requested including the associated terms and conditions. Treasury assumes no liability for expenses incurred by a company prior to the selection, nor any expenses or fees of selected companies if the transaction does not close.
- C. Materials submitted to the Treasury become property of the State. All materials submitted in the proposal are presumed to be a public record under the Colorado Open Records Act. Companies must identify any information they believe is a confidential trade secret and the Treasurer will determine if such materials are a confidential trade secret under § 24-72-204(3)(a)(IV), C.R.S. The Treasury reserves the right to cancel this RFQ at any time or to reject any or all proposals.
- D. The response to this RFQ should not exceed 15 pages excluding the cover page and appendices, with every page numbered except the cover and partition pages, with font no smaller than 12 point and standard margins.

- E. Interested companies should submit complete responses to: Charles Scheibe, COO/CFO, Department of the Treasury. Only digital copies are requested. Email submissions to [Charles.Scheibe@state.co.us](mailto:Charles.Scheibe@state.co.us) and Mary Wickersham, [mary@marywickersham.com](mailto:mary@marywickersham.com).
- F. Proposals are due by 5:00 MDT on **Tuesday October 6, 2020**. It is anticipated that the final selection will be made on or before **Friday, October 16, 2020**.
- G. There is no penalty on a company that chooses not to submit a proposal.
- H. Questions about this RFQ or the Treasury may be directed to: Charles.Scheibe@state.co.us

## **Attachment: The CLIMBER Act**

### HOUSE BILL 20-1413

BY REPRESENTATIVE(S) Bird and Cutter, Arndt, Becker, Buentello, Caraveo, Coleman, Duran, Esgar, Exum, Gonzales-Gutierrez, Jackson, Jaquez Lewis, Kennedy, Kipp, Kraft-Tharp, Lontine, McCluskie, Michaelson Jenet, Mullica, Roberts, Singer, Sirota, Snyder, Valdez A., Valdez D., Woodrow, Young, Bockenfeld, Buckner, Froelich, Garnett, Herod, McLachlan, Sandridge, Sullivan, Tipper, Titone, Weissman;

also SENATOR(S) Zenzinger and Donovan, Bridges, Cooke, Coram, Fenberg, Fields, Gardner, Ginal, Hansen, Holbert, Lee, Moreno, Pettersen, Priola, Rankin, Scott, Sonnenberg, Tate, Todd, Winter, Woodward, Garcia.

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

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

**SECTION 1.** In Colorado Revised Statutes, **add** part 2 to article 36

#### PART 2 SMALL BUSINESS RECOVERY LOAN PROGRAM

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

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

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

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

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



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

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

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

(g) ON MARCH 27, 2020, THE PRESIDENT OF THE UNITED STATES SIGNED THE FEDERAL "CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT", ALSO KNOWN AS THE "CARES ACT", PUB.L. 116-136, TO PROVIDE NECESSARY FEDERAL FUNDING FOR COVID-19 RESPONSE AND RECOVERY;

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

(i) THE GOVERNOR'S COUNCIL ON ECONOMIC STABILIZATION AND GROWTH, MADE UP OF VOLUNTEERS FROM THE PRIVATE, PUBLIC, AND PHILANTHROPIC SECTORS WITH DIVERSE BACKGROUNDS FROM ACROSS COLORADO, HAS RECOMMENDED THAT THE STATE SEED THE ESTABLISHMENT OF A FUND OF OVER ONE HUNDRED MILLION DOLLARS TO STIMULATE LOANS FROM LENDING INSTITUTIONS DOING BUSINESS IN COLORADO TO COLORADO SMALL BUSINESSES TO SUPPORT THE STATE'S RECOVERY AND RESILIENCY FROM THE EFFECTS OF THE COVID-19 PANDEMIC;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) CAN DEMONSTRATE THAT IT HAD A DEBT-SERVICE COVERAGE RATIO AS OF FEBRUARY 29, 2020, OF AT LEAST ONE-TO-ONE OR A HIGHER LEVEL AS DETERMINED BY THE OVERSIGHT BOARD.

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

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

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

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

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

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

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

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

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

**24-36-204. Small business recovery loan program oversight board - creation - report**

**- repeal. (1)** THE SMALL BUSINESS RECOVERY LOAN PROGRAM OVERSIGHT BOARD IS HEREBY CREATED IN THE DEPARTMENT TO HELP ESTABLISH AND OVERSEE THE TERMS AND CONDITIONS OF A CONTRACT OR CONTRACTS THROUGH WHICH THE TREASURER MAY PROVIDE FIRST LOSS CAPITAL TO A LOAN PROGRAM OR THE COLORADO CREDIT RESERVE. THIS SECTION DOES NOT PROHIBIT A LOAN PROGRAM MANAGER OF A SPECIFIC LOAN PROGRAM OR THE COLORADO CREDIT RESERVE FROM ESTABLISHING A SEPARATE INVESTMENT ADVISORY COMMITTEE FOR THAT LOAN PROGRAM.

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

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

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

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

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

(V) ONE MEMBER APPOINTED BY THE GOVERNOR.

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

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

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

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

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

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

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

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

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

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

(b) IN CONSULTATION WITH LENDING INDUSTRY LEADERS AND REPRESENTATIVES OF SMALL BUSINESSES, DETERMINING SPECIFIC TERMS APPLICABLE TO A LOAN PROGRAM AS REQUIRED IN SECTION 24-36-205, WHICH TERMS MUST BE DESIGNED IN GOOD FAITH TO PROCURE THE PARTICIPATION OF LENDING INSTITUTIONS AND BE CONSISTENT WITH REGULATORY REQUIREMENTS AND UNDERWRITING CRITERIA, INCLUDING THE DURATION OF THE GEOGRAPHIC RESTRICTION OF MONEY IN A LOAN PROGRAM;

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

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

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

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

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

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

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

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

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

(I) THE NUMBER AND SIZE OF LOANS MADE;

(II) THE GEOGRAPHIC DISTRIBUTION OF LOANS MADE;

(III) THE DISTRIBUTION OF LOANS MADE BY BUSINESS SECTOR;

(IV) THE DEMOGRAPHICS OF THE OWNERS OF THE BUSINESSES RECEIVING LOANS, INCLUDING THE NUMBER OF BUSINESSES OWNED BY WOMEN, MINORITIES, AND VETERANS;

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

(VI) THE SIZE OF THE BUSINESSES RECEIVING LOANS;

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

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

(IX) THE FINANCIAL PERFORMANCE OF THE FUND;

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

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

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

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

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

**24-36-205. Small business recovery loan program - creation - requirements - oversight. (1)**

(a) THE STATE TREASURER IS AUTHORIZED TO ENTER INTO A CONTRACT OR CONTRACTS TO ESTABLISH A SMALL BUSINESS RECOVERY LOAN PROGRAM IN ACCORDANCE WITH THIS PART 2.

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

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

(3) (a) NOTWITHSTANDING ANY RESTRICTION ON THE INVESTMENT OF STATE MONEY SET FORTH IN SECTION 24-36-113 OR IN ANY OTHER PROVISION OF LAW, SUBJECT TO THE AVAILABILITY OF MONEY IN THE SMALL BUSINESS RECOVERY FUND AND THE REQUIREMENTS OF THIS PART 2:

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

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

(b) THE MONEY PROVIDED UNDER THIS SUBSECTION (3) MUST BE PROVIDED IN TRanches OF TEN MILLION DOLLARS OR LESS, UP TO A MAXIMUM AMOUNT OF FIFTY MILLION DOLLARS IN ALL TRanches COMBINED ACROSS FISCAL YEARS 2020-21 AND 2021-22. THE STATE TREASURER SHALL NOT PROVIDE A TRanche TO A LOAN PROGRAM OR TO THE COLORADO CREDIT RESERVE UNTIL AT LEAST NINETY PERCENT OF THE MONEY IN ANY PRIOR TRanche HAS BEEN INVESTED IN SMALL BUSINESS LOANS IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION, AS DETERMINED BY THE

OVERSIGHT BOARD AND CERTIFIED BY THE LOAN PROGRAM MANAGER. MONEY PROVIDED TO THE COLORADO CREDIT RESERVE IS CONSIDERED INVESTED IN SMALL BUSINESS LOANS FOR THE PURPOSES OF THIS SUBSECTION (3)(b) ONCE IT IS PAID TO THE COLORADO HOUSING AND FINANCE AUTHORITY.

(4) ANY CONTRACT FOR THE ADMINISTRATION OF A LOAN PROGRAM MUST INCLUDE THE FOLLOWING TERMS IN ORDER TO RECEIVE MONEY PROVIDED BY THE STATE TREASURER PURSUANT TO SUBSECTION (3) OF THIS SECTION:

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

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

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

(II) THE LOAN MUST HAVE A MAXIMUM INITIAL MATURITY OF FIVE YEARS, BASED ON THE NEED OF THE ELIGIBLE BORROWER, WITH NO PENALTY FOR PREPAYMENT, AS DETERMINED BY THE OVERSIGHT BOARD. THE ORIGINATING LENDER MAY EXTEND THE TERM FOR PURPOSES OF RESTRUCTURING THE LOAN.

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

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

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

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



(c) (I) IN ORDER TO ENSURE GEOGRAPHIC EQUITY, EACH TRANCHE OF LOAN FUNDING MUST BE SUBJECT TO AN INITIAL PERIOD OF TIME IN WHICH A PORTION OF THE MONEY IS ALLOCATED TO EACH COUNTY ON A BASIS PROPORTIONAL TO THE COUNTY'S SHARE OF SMALL BUSINESSES RELATIVE TO THE STATE, THE COUNTY'S SHARE OF SMALL BUSINESS EMPLOYEES RELATIVE TO THE STATE, THE COUNTY'S SHARE OF SMALL BUSINESS PERSONAL PROPERTY RELATIVE TO THE STATE, OR OTHER SIMILAR METRICS AS DETERMINED BY THE OVERSIGHT BOARD, OR BASED ON A FORMULA ESTABLISHED UNDER SUBSECTION (4)(c)(IV) OF THIS SECTION. THE MONEY ALLOCATED TO EACH COUNTY MUST BE RESERVED FOR APPLICATIONS FROM ELIGIBLE BORROWERS LOCATED IN THAT COUNTY FOR THE INITIAL PERIOD OF TIME. FOR THE PURPOSES OF THIS SUBSECTION (4)(c), AN ELIGIBLE BORROWER IS CONSIDERED TO BE LOCATED IN THE COUNTY IN WHICH IT HAS ITS PRINCIPAL PLACE OF BUSINESS, AS REFLECTED IN ITS MOST RECENT FILING WITH THE SECRETARY OF STATE OR SUBJECT TO SUCH OTHER DOCUMENTATION AS THE OVERSIGHT BOARD ESTABLISHES. THE OVERSIGHT BOARD SHALL DETERMINE THE AMOUNT OF TIME IN WHICH THE MONEY IN EACH TRANCHE IS SUBJECT TO A GEOGRAPHIC RESTRICTION UNDER THIS SUBSECTION (4)(c)(I).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) ANY PENALTIES OR OTHER REMEDIES FOR NONCOMPLIANCE;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**24-75-402. Cash funds - limit on uncommitted reserves - reduction in the amount of fees - exclusions - repeal.** (5) Notwithstanding any provision of this section to the contrary, the following cash funds are excluded from the limitations specified in this section:

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

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