

**HOUSE JOURNAL**  
**SIXTY-THIRD GENERAL ASSEMBLY**  
**STATE OF COLORADO**  
**First Regular Session**

Sixteenth Legislative Day

Thursday, January 25, 2001

1 Prayer by Pastor Bob Krug, Grace Church, Arvada.  
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3 The Speaker called the House to order at 9:00 a.m.  
4  
5 The roll was called with the following result:  
6  
7 Present--60.  
8 Excused--Representatives Alexander, Lee--2.  
9 Absent--Representatives Berry, Saliman, Spence--3.  
10 Present after roll call--Representatives Alexander, Berry, Saliman,  
11 Spence.

12  
13 The Speaker declared a quorum present.  
14  
15

16 On motion of Representative Boyd, the reading of the journal of  
17 January 24, 2001, was dispensed with and approved as corrected by the  
18 Chief Clerk.  
19  
20

**REPORTS OF COMMITTEES OF REFERENCE**

**AGRICULTURE, LIVESTOCK, & NATURAL RESOURCES**

25 After consideration on the merits, the Committee recommends the  
26 following:

27  
28 **HB01-1086** be amended as follows, and as so amended, be referred to  
29 the Committee on Finance with favorable  
30 recommendation:

31  
32 Amend printed bill, strike everything below the enacting clause, and  
33 substitute the following:

34  
35 "SECTION 1. 24-1-123, Colorado Revised Statutes, is amended  
36 BY THE ADDITION OF A NEW SUBSECTION to read:

37  
38 **24-1-123. Department of agriculture - creation.** (7) THE  
39 COLORADO AGRICULTURAL VALUE-ADDED DEVELOPMENT BOARD,  
40 CREATED IN SECTION 35-75-203, C.R.S., SHALL EXERCISE ITS POWERS AND  
41 PERFORM ITS DUTIES AND FUNCTIONS AS SPECIFIED BY LAW UNDER THE  
42 DEPARTMENT AS IF THE SAME WERE TRANSFERRED TO THE DEPARTMENT BY  
43 A **TYPE 1** TRANSFER.

44  
45 **SECTION 2.** Article 75 of title 35, Colorado Revised Statutes,

1 is amended BY THE ADDITION OF A NEW PART to read:

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PART 2  
AGRICULTURE VALUE-ADDED DEVELOPMENT  
FUND PROGRAM

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

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

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

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

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

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

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

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

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

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

1 (2) THE BOARD SHALL CONSIST OF SEVEN MEMBERS OF THE  
2 AUTHORITY. THE COMMISSIONER OF AGRICULTURE SHALL BE AN EX  
3 OFFICIO, NONVOTING MEMBER OF THE BOARD.  
4

5 (3) MEMBERS OF THE BOARD SHALL RECEIVE NO COMPENSATION  
6 FOR THEIR SERVICE ON THE BOARD, BUT SHALL BE ENTITLED TO  
7 REIMBURSEMENT FOR ACTUAL AND NECESSARY TRAVEL AND OTHER  
8 ACTUAL EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL  
9 DUTIES. THE BOARD SHALL ADOPT UNIFORM AND REASONABLE RULES  
10 GOVERNING THE INCURRING AND PAYING OF SUCH EXPENSES.  
11

12 **35-75-204. Duties of the board - agriculture value-added**  
13 **grants, loans and loan guarantees, equity investments, and tax credits.**

14 (1) THE BOARD HAS THE POWER TO MAKE GRANTS, LOANS AND LOAN  
15 GUARANTEES, AND EQUITY INVESTMENTS TO ELIGIBLE AGRICULTURAL  
16 VALUE-ADDED COOPERATIVES, AS DEFINED IN SECTION 35-75-202 (3), AND  
17 TO OFFER TAX CREDITS TO SUCH COOPERATIVES PURSUANT TO SECTION  
18 39-22-527, C.R.S., FOR NEW OR ONGOING RURAL AGRICULTURAL BUSINESS  
19 PROJECTS THAT ADD VALUE TO COLORADO AGRICULTURAL PRODUCTS AND  
20 AID THE ECONOMY OF A RURAL COLORADO COMMUNITY. SUBJECT TO THE  
21 ANNUAL DOLLAR LIMITATIONS STATED IN SECTIONS 39-22-527 AND  
22 39-22-528, C.R.S., THE BOARD ALSO HAS THE POWER TO FUND MARKET  
23 PROMOTION ACTIVITIES OF THE DEPARTMENT PURSUANT TO SECTION  
24 35-75-205 (2) (f) AND TO OFFER TAX CREDITS TO PARTICIPANTS AND TO  
25 AGRICULTURAL BUSINESSES OTHER THAN ELIGIBLE AGRICULTURAL  
26 VALUE-ADDED COOPERATIVES SO LONG AS SUCH AGRICULTURAL  
27 BUSINESSES ARE LOCATED SOLELY IN COLORADO AND COMPLY WITH THE  
28 CRITERIA ESTABLISHED BY THE BOARD PURSUANT TO SUBSECTION (2) OF  
29 THIS SECTION, ADD VALUE TO AGRICULTURAL PRODUCTS, AND AID THE  
30 ECONOMY OF A RURAL COMMUNITY.  
31

32 (2) THE BOARD SHALL CONSIDER, BUT SHALL NOT BE LIMITED TO,  
33 THE FOLLOWING CRITERIA IN DETERMINING WHETHER TO AWARD AN  
34 AGRICULTURE VALUE-ADDED GRANT, LOAN, OR TAX CREDIT:  
35

36 (a) THE AMOUNT OF THE CASH FUNDS INVESTED IN THE RURAL  
37 AGRICULTURAL PROJECT;  
38

39 (b) THE LEVEL OF COMMUNITY INVOLVEMENT AND SUPPORT TO BE  
40 ACHIEVED BY THE GRANT, LOAN, OR TAX CREDIT;  
41

42 (c) THE PHASE THE RURAL AGRICULTURAL PROJECT IS IN, ON AN  
43 ANNUAL BASIS;  
44

45 (d) THE DIRECTORS AND CONSULTANTS CHOSEN TO LEAD THE  
46 RURAL AGRICULTURAL PROJECT;  
47

48 (e) THE AMOUNT NEEDED FOR THE PROJECT TO ACHIEVE THE  
49 BANKABLE STAGE;  
50

51 (f) THE RURAL AGRICULTURAL PROJECT'S PLANNING FOR  
52 LONG-TERM SUCCESS THROUGH FEASIBILITY STUDIES, MARKETING PLANS,  
53 AND BUSINESS PLANS; AND  
54

55 (g) THE NET ECONOMIC BENEFIT TO THE STATE.  
56

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

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

8  
9 (b) UPON A DETERMINATION BY THE BOARD THAT THE PROJECT  
10 CONCEPT IS FEASIBLE, THE BOARD MAY CAUSE A MARKETING STUDY TO BE  
11 PERFORMED. SUCH MARKETING STUDY SHALL BE DESIGNED TO DETERMINE  
12 IF THE PROJECT CONCEPT MAY BE OPERATED PROFITABLY.

13  
14 (c) UPON A DETERMINATION BY THE BOARD THAT THE PROJECT  
15 CONCEPT MAY BE OPERATED PROFITABLY, THE BOARD MAY PROVIDE FOR  
16 LEGAL ASSISTANCE TO SET UP THE PROJECT. SUCH LEGAL ASSISTANCE  
17 SHALL INCLUDE, BUT NOT BE LIMITED TO, PROVIDING ADVICE AND  
18 ASSISTANCE ON THE FORM OF BUSINESS ENTITY, THE AVAILABILITY OF TAX  
19 CREDITS, AND OTHER ASSISTANCE FOR WHICH THE MEMBER MAY QUALIFY  
20 AS WELL AS HELPING THE MEMBER APPLY FOR SUCH ASSISTANCE.

21  
22 (5) THE BOARD MAY PROVIDE OR FACILITATE GRANTS, LOANS OR  
23 LOAN GUARANTEES, EQUITY INVESTMENTS, OR TAX CREDITS FOR THE  
24 MEMBER INCLUDING, BUT NOT LIMITED TO, LOANS FROM THE UNITED  
25 STATES DEPARTMENT OF AGRICULTURE RURAL DEVELOPMENT PROGRAM,  
26 SUBJECT TO AVAILABILITY. SUCH FINANCIAL ASSISTANCE SHALL ONLY BE  
27 PROVIDED TO FEASIBLE PROJECT CONCEPTS THAT MAY BE OPERATED  
28 PROFITABLY, AND THE AMOUNT OF SUCH FINANCIAL ASSISTANCE SHALL BE  
29 THE LEAST AMOUNT NECESSARY TO CAUSE THE PROJECT TO OCCUR, AS  
30 DETERMINED BY THE BOARD. THE BOARD MAY STRUCTURE THE FINANCIAL  
31 ASSISTANCE IN A WAY THAT CAUSES THE PROJECT TO OCCUR AND ALSO  
32 PROVIDES FOR A COMPENSATORY RETURN ON INVESTMENT OR LOAN  
33 PAYMENT TO THE BOARD, BASED UPON THE RISK OF THE PROJECT CONCEPT.

34  
35 (6) THE BOARD MAY ALSO PROVIDE FOR CONSULTING SERVICES  
36 FOR THE BUILDING AND OPERATION OF THE PROJECT. SUCH CONSULTING  
37 SERVICES MAY BE PROVIDED THROUGH STATE EMPLOYEES OR THROUGH  
38 CONTRACTS WITH PRIVATE ENTITIES.

39  
40 (7) THE BOARD MAY CHARGE THE MEMBER A REASONABLE FEE FOR  
41 PROCESSING AN APPLICATION FOR FINANCIAL ASSISTANCE OR FOR OTHER  
42 SERVICES PERFORMED BY THE BOARD OR ITS STAFF.

43  
44 (8) THE BOARD MAY CONSULT WITH OTHER STATE OR FEDERAL  
45 AGENCIES AS NECESSARY TO PERFORM ITS DUTIES PURSUANT TO THIS PART  
46 2.

47  
48 **35-75-205. Grants, loans and loan guarantees, and equity**  
49 **investments - agriculture value-added cash fund - created.** (1) THE  
50 MONEYS DERIVED FROM PURCHASES OF TAX CREDITS FROM THE BOARD BY  
51 PARTICIPANTS IN ACCORDANCE WITH SECTION 39-22-528, C.R.S., AND  
52 MONEYS RECEIVED BY THE BOARD FROM PUBLIC OR PRIVATE GIFTS,  
53 GRANTS, OR DONATIONS OR FROM ANY OTHER SOURCE SHALL BE  
54 FORWARDED TO THE STATE TREASURER AND SHALL BE CREDITED TO THE  
55 AGRICULTURE VALUE-ADDED CASH FUND, WHICH FUND IS HEREBY  
56 CREATED. MONEYS IN THE FUND ARE CONTINUOUSLY APPROPRIATED TO

1 THE BOARD AND SHALL BE USED FOR FINANCIAL OR TECHNICAL  
2 ASSISTANCE FOR THE PURPOSE OF PREPARING CRITERIA AND REVIEWING  
3 APPLICATIONS PROVIDED IN SECTION 35-75-204, TO RURAL AGRICULTURAL  
4 PROJECTS AND PROJECT CONCEPTS AS APPROVED BY THE BOARD. ALL  
5 INTEREST EARNED ON THE INVESTMENT OF MONEYS IN THE FUND SHALL BE  
6 CREDITED TO THE FUND. THE BOARD MAY PROVIDE OR FACILITATE  
7 GRANTS, LOANS AND LOAN GUARANTEES, AND EQUITY INVESTMENTS FOR  
8 RURAL AGRICULTURAL PROJECTS OR PROJECT CONCEPTS; EXCEPT THAT  
9 SUCH GRANTS, LOANS AND LOAN GUARANTEES, AND EQUITY INVESTMENTS  
10 SHALL BE LIMITED TO TWO MILLION DOLLARS PER PROJECT. GRANTS,  
11 LOANS AND LOAN GUARANTEES, AND EQUITY INVESTMENTS MAY ONLY BE  
12 PROVIDED TO FEASIBLE PROJECTS AND FOR AN AMOUNT THAT IS THE LEAST  
13 AMOUNT NECESSARY TO CAUSE THE PROJECT TO OCCUR, AS DETERMINED  
14 BY THE BOARD. THE BOARD MAY STRUCTURE THE GRANTS, LOANS AND  
15 LOAN GUARANTEES, AND EQUITY INVESTMENTS IN A WAY THAT  
16 FACILITATES THE PROJECT AND ALSO PROVIDES FOR A COMPENSATORY  
17 RETURN ON INVESTMENT OR LOAN PAYMENT TO THE BOARD BASED ON THE  
18 RISK OF THE PROJECT. ANY MONEYS CREDITED TO THE AGRICULTURE  
19 VALUE-ADDED CASH FUND AND UNEXPENDED AT THE END OF ANY GIVEN  
20 FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE  
21 GENERAL FUND OR ANY OTHER FUND.

22  
23 (2) (a) THE BOARD, UPON APPLICATION, MAY:

24  
25 (I) ISSUE CERTIFICATES OF GUARANTY COVERING A FIRST LOSS  
26 GUARANTEE UP TO, BUT NOT MORE THAN, TWENTY-FIVE PERCENT OF THE  
27 LOAN ON A DECLINING PRINCIPAL BASIS FOR LOANS TO ELIGIBLE  
28 BORROWERS, EXECUTING A NOTE OR OTHER EVIDENCE OF A LOAN MADE  
29 FOR THE PURPOSE OF A LOAN MADE PURSUANT TO THIS PART 2, BUT NOT TO  
30 EXCEED THE AMOUNT OF TWO HUNDRED FIFTY THOUSAND DOLLARS FOR  
31 ANY ELIGIBLE BORROWER; AND

32  
33 (II) PAY FROM THE FUND TO AN ELIGIBLE LENDER UP TO  
34 TWENTY-FIVE PERCENT OF THE AMOUNT, ON A DECLINING PRINCIPAL BASIS,  
35 OF ANY LOSS ON ANY GUARANTEED LOAN MADE PURSUANT TO THE  
36 PROVISIONS OF THIS ARTICLE IN THE EVENT OF DEFAULT ON THE LOAN.  
37 UPON PAYMENT ON THE GUARANTEE, THE BOARD SHALL BE SUBROGATED  
38 TO ALL THE RIGHTS OF THE ELIGIBLE LENDER.

39  
40 (b) THE BOARD SHALL CHARGE FOR EACH LOAN MADE PURSUANT  
41 TO THIS PART 2 A ONE-TIME PARTICIPATION FEE OF ONE PERCENT OF THE  
42 LOAN AMOUNT, WHICH SHALL BE COLLECTED BY THE ELIGIBLE LENDER AT  
43 THE TIME OF CLOSING AND PAID TO THE BOARD. IN ADDITION, THE BOARD  
44 MAY CHARGE A SPECIAL LOAN GUARANTEE FEE OF UP TO ONE PERCENT PER  
45 ANNUM OF THE OUTSTANDING PRINCIPAL, WHICH FEE SHALL BE COLLECTED  
46 FROM THE ELIGIBLE BORROWER BY THE ELIGIBLE LENDER AND PAID TO THE  
47 BOARD. MONEYS COLLECTED SHALL BE DEPOSITED IN THE AGRICULTURE  
48 VALUE-ADDED CASH FUND.

49  
50 (c) MONEYS PAID TO SATISFY A DEFAULTED LOAN MADE PURSUANT  
51 TO THIS PART 2 SHALL ONLY BE PAID OUT OF THE AGRICULTURE  
52 VALUE-ADDED CASH FUND.

53  
54 (d) THE TOTAL OUTSTANDING LOANS MADE PURSUANT TO THIS  
55 PART 2 SHALL AT NO TIME EXCEED AN AMOUNT WHICH, ACCORDING TO  
56 SOUND ACTUARIAL JUDGMENT, WOULD ALLOW IMMEDIATE REDEMPTION OF

1 AT LEAST FORTY PERCENT OF THE OUTSTANDING LOANS GUARANTEED BY  
2 THE FUND AT ANY ONE TIME.

3  
4 (e) THE BOARD MAY MAKE FINANCIAL ARRANGEMENTS FOR AN  
5 ELIGIBLE BUSINESS TO PURCHASE AN EXISTING, ESTABLISHED  
6 DEVELOPMENT FACILITY.

7  
8 (f) THE DEPARTMENT SHALL, AS PART OF THE ADMINISTRATION OF  
9 THE AGRICULTURE VALUE-ADDED DEVELOPMENT FUND PROGRAM CREATED  
10 IN THIS PART 2, ESTABLISH MARKET PROMOTION ACTIVITIES AND MAY  
11 APPLY TO THE BOARD TO SUPPORT SUCH ACTIVITIES THROUGH  
12 DISBURSEMENTS FROM THE FUND.

13  
14 (3) IN ANY GIVEN YEAR, AT LEAST TEN PERCENT OF THE FUNDS  
15 GRANTED TO RURAL AGRICULTURAL PROJECTS AND PROJECT CONCEPTS  
16 SHALL BE AWARDED IN RESPONSE TO GRANT REQUESTS OF FIFTY  
17 THOUSAND DOLLARS OR LESS. NO SINGLE RURAL AGRICULTURAL PROJECT  
18 OR PROJECT CONCEPT SHALL RECEIVE MORE THAN TWO HUNDRED  
19 THOUSAND DOLLARS IN GRANT AWARDS FROM THE BOARD.

20  
21 **SECTION 3.** Part 5 of article 22 of title 39, Colorado Revised  
22 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW  
23 SECTIONS to read:

24  
25 **39-22-527. Agricultural value-added tax credit - definition.**

26 (1) AS USED IN THIS SECTION, "BOARD" MEANS THE COLORADO  
27 AGRICULTURAL VALUE-ADDED DEVELOPMENT BOARD CREATED IN SECTION  
28 35-75-203, C.R.S.

29  
30 (2) SUBJECT TO THE PROVISIONS OF SUBSECTIONS (4) TO (13) OF  
31 THIS SECTION, FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER  
32 JANUARY 1, 2001, IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE  
33 CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE  
34 CONTROLLER CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR THE  
35 STATE FISCAL YEAR ENDING IN THAT INCOME TAX YEAR EXCEEDS THE  
36 LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7)  
37 (a) OF ARTICLE X OF THE STATE CONSTITUTION BY AT LEAST \_\_\_ MILLION  
38 DOLLARS AND THE VOTERS STATEWIDE EITHER HAVE NOT AUTHORIZED THE  
39 STATE TO RETAIN AND SPEND ALL OF THE EXCESS STATE REVENUES OR  
40 HAVE AUTHORIZED THE STATE TO RETAIN AND SPEND ONLY A PORTION OF  
41 THE EXCESS STATE REVENUES FOR THAT FISCAL YEAR, THERE SHALL BE  
42 ALLOWED TO EACH MEMBER, AS DEFINED IN SECTION 35-75-202 (5),  
43 C.R.S., WHO HAS HAD AN APPLICATION FOR A TAX CREDIT APPROVED IN  
44 ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION, A CREDIT WITH  
45 RESPECT TO THE INCOME TAXES IMPOSED BY THIS ARTICLE, IN AN AMOUNT  
46 EQUAL TO THE LESSER OF FIFTY PERCENT OF SUCH MEMBER'S INVESTMENT  
47 OR FIFTEEN THOUSAND DOLLARS; EXCEPT THAT THE TOTAL AMOUNT OF  
48 TAX CREDITS ALLOWED TO MEMBERS WITH RESPECT TO ANY ONE PROJECT  
49 SHALL NOT EXCEED ONE MILLION FIVE HUNDRED THOUSAND DOLLARS.

50  
51 (3) TO QUALIFY FOR THE CREDIT PROVIDED BY THIS SECTION, THE  
52 MEMBER SHALL SUBMIT A TAX CREDIT CERTIFICATE WITH EACH INCOME  
53 TAX RETURN. APPLICATION FORMS FOR TAX CREDIT CERTIFICATES SHALL  
54 BE OBTAINED FROM THE BOARD. UPON RECEIVING A PROPERLY  
55 COMPLETED APPLICATION FORM FROM THE MEMBER, THE BOARD SHALL  
56 DETERMINE WHETHER THE MEMBER HAS SATISFIED THE REQUIREMENTS

1 FOR ALLOWANCE OF THE CREDIT AS SPECIFIED IN SUBSECTION (4) OF THIS  
2 SECTION AND SECTION 35-75-204, C.R.S., AND, IF SO, SHALL ISSUE A TAX  
3 CREDIT CERTIFICATE IN THE APPROPRIATE AMOUNT AND SHALL NOTIFY THE  
4 EXECUTIVE DIRECTOR OF THE AMOUNT OF THE TAX CREDIT AND THE  
5 IDENTITY OF THE MEMBER TO WHOM THE TAX CREDIT WAS ISSUED.

6  
7 (4) TAX CREDITS ISSUED PURSUANT TO THIS SECTION SHALL  
8 INITIALLY BE CLAIMED FOR THE LATER OF THE TAXABLE YEAR IN WHICH  
9 THE MEMBER CONTRIBUTES CAPITAL TO AN ELIGIBLE AGRICULTURAL  
10 VALUE-ADDED COOPERATIVE OR THE TAXABLE YEAR APPROVED BY THE  
11 BOARD.

12  
13 (5) THE BOARD SHALL CERTIFY AT LEAST TEN PERCENT OF THE TAX  
14 CREDITS AUTHORIZED BY THIS SECTION IN ANY FISCAL YEAR IN  
15 CONNECTION WITH QUALIFIED PROJECTS HAVING CAPITAL COSTS OF NO  
16 MORE THAN ONE MILLION DOLLARS.

17  
18 (6) IF MEMBERS APPLYING FOR TAX CREDITS AUTHORIZED BY THIS  
19 SECTION IN CONNECTION WITH ANY ONE PROJECT WOULD BE ELIGIBLE FOR  
20 TAX CREDITS IN EXCESS OF ONE MILLION FIVE HUNDRED THOUSAND  
21 DOLLARS, SUCH TAX CREDITS SHALL BE PRORATED AMONG THE MEMBERS  
22 ON A PERCENT-OF-INVESTMENT BASIS, NOT TO EXCEED THE MAXIMUM  
23 ALLOWED PER MEMBER.

24  
25 (7) THE AGGREGATE VALUE OF TAX CREDITS ISSUED PER FISCAL  
26 YEAR PURSUANT TO THIS SECTION AND SECTION 39-22-528 SHALL NOT  
27 EXCEED FOUR MILLION DOLLARS.

28  
29 (8) BEGINNING MARCH 1, 2002, AND ON MARCH 1 OF EACH YEAR  
30 THEREAFTER, THE BOARD SHALL DETERMINE THE TOTAL AMOUNT OF TAX  
31 CREDITS TO BE ISSUED TO AGRICULTURAL VALUE-ADDED COOPERATIVES  
32 PURSUANT TO THIS SECTION IN THAT FISCAL YEAR. IF THE BOARD  
33 DETERMINES THAT LESS THAN FOUR MILLION DOLLARS' WORTH OF TAX  
34 CREDITS WILL BE ISSUED TO AGRICULTURAL VALUE-ADDED COOPERATIVES  
35 PURSUANT TO THIS SECTION IN THAT FISCAL YEAR, THE BOARD MAY ISSUE  
36 THE REMAINING AUTHORIZED TAX CREDITS TO PARTICIPANTS PURSUANT TO  
37 SECTION 39-22-528.

38  
39 (9) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT,  
40 IN ORDER FOR ALL GEOGRAPHIC AREAS OF COLORADO TO HAVE THE  
41 OPPORTUNITY FOR ECONOMIC DEVELOPMENT, IT IS VITAL THAT A SOURCE  
42 OF FUNDING BE CREATED FOR RURAL BUSINESS ENTERPRISES. THE  
43 GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT CREATING AN  
44 INCOME TAX CREDIT FOR INVESTMENT IN RURAL BUSINESS ENTERPRISES IS  
45 A REASONABLE METHOD OF REFUNDING A PORTION OF THE EXCESS STATE  
46 REVENUES REQUIRED TO BE REFUNDED IN ACCORDANCE WITH SECTION 20  
47 (7) (d) OF ARTICLE X OF THE STATE CONSTITUTION.

48  
49 (10) IF THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THE  
50 PROVISIONS OF THIS SECTION EXCEEDS THE AMOUNT OF THE INCOME TAXES  
51 OTHERWISE DUE ON THE TAXPAYER'S INCOME IN THE INCOME TAX YEAR  
52 FOR WHICH THE CREDIT IS BEING CLAIMED, THE AMOUNT OF THE CREDIT  
53 NOT USED AS AN OFFSET AGAINST INCOME TAXES IN SAID INCOME TAX  
54 YEAR SHALL NOT BE CARRIED FORWARD AND USED AS A CREDIT AGAINST  
55 THE TAXPAYER'S SUBSEQUENT YEARS' INCOME TAX LIABILITY AND SHALL  
56 BE REFUNDED TO THE TAXPAYER.

1 (11) (a) NO LATER THAN OCTOBER 1 OF ANY GIVEN CALENDAR  
2 YEAR COMMENCING ON OR AFTER JANUARY 1, 2002, THE EXECUTIVE  
3 DIRECTOR SHALL ANNUALLY ADJUST THE DOLLAR AMOUNT SPECIFIED IN  
4 THIS SUBSECTION (11) TO REFLECT THE RATE OF GROWTH OF COLORADO  
5 PERSONAL INCOME FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING  
6 THE CALENDAR YEAR IN WHICH SUCH ADJUSTMENT IS MADE. FOR  
7 PURPOSES OF THIS PARAGRAPH (a), "THE RATE OF GROWTH OF COLORADO  
8 PERSONAL INCOME" MEANS THE PERCENTAGE CHANGE BETWEEN THE MOST  
9 RECENT PUBLISHED ANNUAL ESTIMATE OF TOTAL PERSONAL INCOME FOR  
10 COLORADO, AS DEFINED AND OFFICIALLY REPORTED BY THE BUREAU OF  
11 ECONOMIC ANALYSIS IN THE UNITED STATES DEPARTMENT OF COMMERCE  
12 FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR  
13 IN WHICH THE ADJUSTMENT IS MADE AND THE MOST RECENT PUBLISHED  
14 ANNUAL ESTIMATE OF TOTAL PERSONAL INCOME FOR COLORADO, AS  
15 DEFINED AND OFFICIALLY REPORTED BY THE BUREAU OF ECONOMIC  
16 ANALYSIS IN THE UNITED STATES DEPARTMENT OF COMMERCE FOR THE  
17 CALENDAR YEAR PRIOR TO THE CALENDAR YEAR IMMEDIATELY PRECEDING  
18 THE CALENDAR YEAR IN WHICH THE ADJUSTMENT IS MADE.

19  
20 (b) UPON CALCULATING THE ADJUSTMENT OF SAID DOLLAR  
21 AMOUNT IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (11),  
22 THE EXECUTIVE DIRECTOR SHALL NOTIFY IN WRITING THE EXECUTIVE  
23 COMMITTEE OF THE LEGISLATIVE COUNCIL CREATED PURSUANT TO SECTION  
24 2-3-301 (1), C.R.S., OF THE ADJUSTED DOLLAR AMOUNT AND THE BASIS  
25 FOR THE ADJUSTMENT. SUCH WRITTEN NOTIFICATION SHALL BE GIVEN  
26 WITHIN FIVE WORKING DAYS AFTER SUCH CALCULATION IS COMPLETED,  
27 BUT SUCH WRITTEN NOTIFICATION SHALL BE GIVEN NO LATER THAN  
28 OCTOBER 1 OF THE CALENDAR YEAR.

29  
30 (c) IT IS THE FUNCTION OF THE EXECUTIVE COMMITTEE OF THE  
31 LEGISLATIVE COUNCIL TO REVIEW AND APPROVE OR DISAPPROVE SUCH  
32 ADJUSTMENT OF SAID DOLLAR AMOUNT WITHIN TWENTY DAYS AFTER  
33 RECEIPT OF SUCH WRITTEN NOTIFICATION FROM THE EXECUTIVE DIRECTOR.  
34 ANY ADJUSTMENT THAT IS NOT APPROVED OR DISAPPROVED BY THE  
35 EXECUTIVE COMMITTEE WITHIN SAID TWENTY DAYS SHALL BE  
36 AUTOMATICALLY APPROVED; EXCEPT THAT, IF WITHIN SAID TWENTY DAYS  
37 THE EXECUTIVE COMMITTEE SCHEDULES A HEARING ON SUCH ADJUSTMENT,  
38 SUCH AUTOMATIC APPROVAL SHALL NOT OCCUR UNLESS THE EXECUTIVE  
39 COMMITTEE DOES NOT APPROVE OR DISAPPROVE SUCH ADJUSTMENT AFTER  
40 THE CONCLUSION OF SUCH HEARING. ANY HEARING CONDUCTED BY THE  
41 EXECUTIVE COMMITTEE PURSUANT TO THIS PARAGRAPH (c) SHALL BE  
42 CONCLUDED NO LATER THAN TWENTY-FIVE DAYS AFTER RECEIPT OF SUCH  
43 WRITTEN NOTIFICATION FROM THE EXECUTIVE DIRECTOR.

44  
45 (d) IF THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL  
46 DISAPPROVES ANY ADJUSTMENT OF SAID DOLLAR AMOUNT CALCULATED BY  
47 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE PURSUANT TO  
48 THIS SUBSECTION (11), THE EXECUTIVE COMMITTEE SHALL SPECIFY SUCH  
49 ADJUSTED DOLLAR AMOUNT TO BE UTILIZED BY THE EXECUTIVE DIRECTOR.  
50 ANY ADJUSTED DOLLAR AMOUNT SPECIFIED BY THE EXECUTIVE  
51 COMMITTEE PURSUANT TO THIS PARAGRAPH (d) SHALL BE CALCULATED IN  
52 ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH (a) OF THIS  
53 SUBSECTION (11).

54  
55 (e) FOR THE PURPOSE OF DETERMINING WHETHER THE STATE  
56 INCOME TAX CREDIT AUTHORIZED BY THIS SECTION IS TO BE ALLOWED IN



1 ANY GIVEN TAX YEAR, THE EXECUTIVE DIRECTOR SHALL NOT UTILIZE ANY  
2 ADJUSTED DOLLAR AMOUNT THAT HAS NOT BEEN APPROVED PURSUANT TO  
3 PARAGRAPH (c) OF THIS SUBSECTION (11) OR OTHERWISE SPECIFIED  
4 PURSUANT TO PARAGRAPH (d) OF THIS SUBSECTION (11).  
5

6 (12) IF ONE OR MORE BALLOT QUESTIONS ARE SUBMITTED TO THE  
7 VOTERS AT A STATEWIDE ELECTION TO BE HELD IN NOVEMBER OF ANY  
8 CALENDAR YEAR COMMENCING ON OR AFTER JANUARY 1, 2001, THAT SEEK  
9 AUTHORIZATION FOR THE STATE TO RETAIN AND SPEND ALL OR ANY  
10 PORTION OF THE AMOUNT OF EXCESS STATE REVENUES FOR THE STATE  
11 FISCAL YEAR ENDING DURING SAID CALENDAR YEAR, THE EXECUTIVE  
12 DIRECTOR SHALL NOT DETERMINE WHETHER THE CREDIT AUTHORIZED BY  
13 SUBSECTION (3) OF THIS SECTION SHALL BE ALLOWED AND SHALL NOT  
14 PROMULGATE RULES CONTAINING SAID CREDIT UNTIL THE IMPACT OF THE  
15 RESULTS OF SAID ELECTION ON THE AMOUNT OF THE EXCESS STATE  
16 REVENUES TO BE REFUNDED IS ASCERTAINED.  
17

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

23 (a) FOR INDIVIDUALS FILING FEDERAL INCOME TAX RETURNS AS  
24 MARRIED FILING SEPARATELY, FIFTY THOUSAND DOLLARS PER TAX YEAR,  
25 AND FOR THOSE FILING FEDERAL INCOME TAX RETURNS AS SINGLE OR  
26 MARRIED FILING JOINTLY, ONE HUNDRED THOUSAND DOLLARS PER TAX  
27 YEAR.  
28

29 (b) FOR A CONTROLLED GROUP OF "C" CORPORATIONS, AS DEFINED  
30 IN 26 U.S.C. SEC. 1563(a), ONE HUNDRED THOUSAND DOLLARS PER TAX  
31 YEAR FOR THE ENTIRE AFFILIATED GROUP.  
32

33 (c) FOR QUALIFIED SUBCHAPTER "S" SUBSIDIARIES AND PARENT  
34 CORPORATIONS THEREOF, AND FOR ALL LIMITED LIABILITY COMPANIES  
35 RELATED BY AT LEAST EIGHTY PERCENT OWNERSHIP, ONE HUNDRED  
36 THOUSAND DOLLARS PER TAX YEAR FOR ALL SUCH RELATED  
37 CORPORATIONS IN TOTAL.  
38

39 (d) FOR ALL ENTITIES ELECTING PASS-THROUGH ENTITY STATUS  
40 FOR FEDERAL INCOME TAX PURPOSES, ONE HUNDRED THOUSAND DOLLARS  
41 PER TAX YEAR FOR EACH ENTITY THAT PASSES CREDIT THROUGH TO A  
42 PERSON SUBJECT TO INCOME TAX, SHARED BY THE TAXPAYER OWNERS ON  
43 THE SAME BASIS AS PROFITS AND LOSSES ARE SHARED.  
44

45 **39-22-528. Tax credit for participation in agriculture**  
46 **value-added cash fund - definitions.** (1) AS USED IN THIS SECTION:  
47

48 (a) "BOARD" MEANS THE COLORADO AGRICULTURAL  
49 VALUE-ADDED DEVELOPMENT BOARD CREATED IN SECTION 35-75-203,  
50 C.R.S.  
51

52 (b) "PARTICIPANT" HAS THE MEANING SET FORTH IN SECTION  
53 35-75-202 (6), C.R.S.  
54

55 (2) SUBJECT TO THE PROVISIONS OF SUBSECTION (3) OF THIS  
56 SECTION, FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER

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

22  
23 (3) TO QUALIFY FOR THE CREDIT PROVIDED BY THIS SECTION, THE  
24 PARTICIPANT SHALL SUBMIT A TAX CREDIT CERTIFICATE WITH EACH  
25 INCOME TAX RETURN. APPLICATION FORMS FOR TAX CREDIT CERTIFICATES  
26 SHALL BE OBTAINED FROM THE BOARD. UPON RECEIVING A PROPERLY  
27 COMPLETED APPLICATION FORM FROM THE PARTICIPANT, THE BOARD  
28 SHALL DETERMINE WHETHER THE PARTICIPANT HAS SATISFIED THE  
29 REQUIREMENTS FOR ALLOWANCE OF THE CREDIT AS SPECIFIED IN THIS  
30 SECTION AND THE REQUIREMENTS OF THE BOARD AND, IF SO, SHALL ISSUE  
31 A TAX CREDIT CERTIFICATE IN THE APPROPRIATE AMOUNT AND SHALL  
32 NOTIFY THE EXECUTIVE DIRECTOR OF THE AMOUNT OF THE TAX CREDIT  
33 AND THE IDENTITY OF THE PARTICIPANT.

34  
35 (4) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT,  
36 IN ORDER FOR ALL GEOGRAPHIC AREAS OF COLORADO TO HAVE THE  
37 OPPORTUNITY FOR ECONOMIC DEVELOPMENT, IT IS VITAL THAT A SOURCE  
38 OF FUNDING BE CREATED FOR RURAL BUSINESS ENTERPRISES. THE  
39 GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT CREATING AN  
40 INCOME TAX CREDIT FOR INVESTMENT IN RURAL BUSINESS ENTERPRISES IS  
41 A REASONABLE METHOD OF REFUNDING A PORTION OF THE EXCESS STATE  
42 REVENUES REQUIRED TO BE REFUNDED IN ACCORDANCE WITH SECTION 20  
43 (7) (d) OF ARTICLE X OF THE STATE CONSTITUTION.

44  
45 (5) IF THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THE  
46 PROVISIONS OF THIS SECTION EXCEEDS THE AMOUNT OF THE INCOME TAXES  
47 OTHERWISE DUE ON THE TAXPAYER'S INCOME IN THE INCOME TAX YEAR  
48 FOR WHICH THE CREDIT IS BEING CLAIMED, THE AMOUNT OF THE CREDIT  
49 NOT USED AS AN OFFSET AGAINST INCOME TAXES IN SAID INCOME TAX  
50 YEAR SHALL NOT BE CARRIED FORWARD AND USED AS A CREDIT AGAINST  
51 THE TAXPAYER'S SUBSEQUENT YEARS' INCOME TAX LIABILITY AND SHALL  
52 BE REFUNDED TO THE TAXPAYER.

53  
54 (6) (a) NO LATER THAN OCTOBER 1 OF ANY GIVEN CALENDAR YEAR  
55 COMMENCING ON OR AFTER JANUARY 1, 2002, THE EXECUTIVE DIRECTOR  
56 SHALL ANNUALLY ADJUST THE DOLLAR AMOUNT SPECIFIED IN THIS

1 SUBSECTION (6) TO REFLECT THE RATE OF GROWTH OF COLORADO  
2 PERSONAL INCOME FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING  
3 THE CALENDAR YEAR IN WHICH SUCH ADJUSTMENT IS MADE. FOR  
4 PURPOSES OF THIS PARAGRAPH (a), "THE RATE OF GROWTH OF COLORADO  
5 PERSONAL INCOME" MEANS THE PERCENTAGE CHANGE BETWEEN THE MOST  
6 RECENT PUBLISHED ANNUAL ESTIMATE OF TOTAL PERSONAL INCOME FOR  
7 COLORADO, AS DEFINED AND OFFICIALLY REPORTED BY THE BUREAU OF  
8 ECONOMIC ANALYSIS IN THE UNITED STATES DEPARTMENT OF COMMERCE  
9 FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR  
10 IN WHICH THE ADJUSTMENT IS MADE AND THE MOST RECENT PUBLISHED  
11 ANNUAL ESTIMATE OF TOTAL PERSONAL INCOME FOR COLORADO, AS  
12 DEFINED AND OFFICIALLY REPORTED BY THE BUREAU OF ECONOMIC  
13 ANALYSIS IN THE UNITED STATES DEPARTMENT OF COMMERCE FOR THE  
14 CALENDAR YEAR PRIOR TO THE CALENDAR YEAR IMMEDIATELY PRECEDING  
15 THE CALENDAR YEAR IN WHICH THE ADJUSTMENT IS MADE.

16  
17 (b) UPON CALCULATING THE ADJUSTMENT OF SAID DOLLAR  
18 AMOUNT IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (6),  
19 THE EXECUTIVE DIRECTOR SHALL NOTIFY IN WRITING THE EXECUTIVE  
20 COMMITTEE OF THE LEGISLATIVE COUNCIL CREATED PURSUANT TO SECTION  
21 2-3-301 (1), C.R.S., OF THE ADJUSTED DOLLAR AMOUNT AND THE BASIS  
22 FOR THE ADJUSTMENT. SUCH WRITTEN NOTIFICATION SHALL BE GIVEN  
23 WITHIN FIVE WORKING DAYS AFTER SUCH CALCULATION IS COMPLETED,  
24 BUT SUCH WRITTEN NOTIFICATION SHALL BE GIVEN NO LATER THAN  
25 OCTOBER 1 OF THE CALENDAR YEAR.

26  
27 (c) IT IS THE FUNCTION OF THE EXECUTIVE COMMITTEE OF THE  
28 LEGISLATIVE COUNCIL TO REVIEW AND APPROVE OR DISAPPROVE SUCH  
29 ADJUSTMENT OF SAID DOLLAR AMOUNT WITHIN TWENTY DAYS AFTER  
30 RECEIPT OF SUCH WRITTEN NOTIFICATION FROM THE EXECUTIVE DIRECTOR.  
31 ANY ADJUSTMENT THAT IS NOT APPROVED OR DISAPPROVED BY THE  
32 EXECUTIVE COMMITTEE WITHIN SAID TWENTY DAYS SHALL BE  
33 AUTOMATICALLY APPROVED; EXCEPT THAT, IF WITHIN SAID TWENTY DAYS  
34 THE EXECUTIVE COMMITTEE SCHEDULES A HEARING ON SUCH ADJUSTMENT,  
35 SUCH AUTOMATIC APPROVAL SHALL NOT OCCUR UNLESS THE EXECUTIVE  
36 COMMITTEE DOES NOT APPROVE OR DISAPPROVE SUCH ADJUSTMENT AFTER  
37 THE CONCLUSION OF SUCH HEARING. ANY HEARING CONDUCTED BY THE  
38 EXECUTIVE COMMITTEE PURSUANT TO THIS PARAGRAPH (c) SHALL BE  
39 CONCLUDED NO LATER THAN TWENTY-FIVE DAYS AFTER RECEIPT OF SUCH  
40 WRITTEN NOTIFICATION FROM THE EXECUTIVE DIRECTOR.

41  
42 (d) IF THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL  
43 DISAPPROVES ANY ADJUSTMENT OF SAID DOLLAR AMOUNT CALCULATED BY  
44 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE PURSUANT TO  
45 THIS SUBSECTION (6), THE EXECUTIVE COMMITTEE SHALL SPECIFY SUCH  
46 ADJUSTED DOLLAR AMOUNT TO BE UTILIZED BY THE EXECUTIVE DIRECTOR.  
47 ANY ADJUSTED DOLLAR AMOUNT SPECIFIED BY THE EXECUTIVE  
48 COMMITTEE PURSUANT TO THIS PARAGRAPH (d) SHALL BE CALCULATED IN  
49 ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH (a) OF THIS  
50 SUBSECTION (6).

51  
52 (e) FOR THE PURPOSE OF DETERMINING WHETHER THE STATE  
53 INCOME TAX CREDIT AUTHORIZED BY THIS SECTION IS TO BE ALLOWED IN  
54 ANY GIVEN TAX YEAR, THE EXECUTIVE DIRECTOR SHALL NOT UTILIZE ANY  
55 ADJUSTED DOLLAR AMOUNT THAT HAS NOT BEEN APPROVED PURSUANT TO  
56 PARAGRAPH (c) OF THIS SUBSECTION (6) OR OTHERWISE SPECIFIED

1 PURSUANT TO PARAGRAPH (d) OF THIS SUBSECTION (6).

2  
3 (7) IF ONE OR MORE BALLOT QUESTIONS ARE SUBMITTED TO THE  
4 VOTERS AT A STATEWIDE ELECTION TO BE HELD IN NOVEMBER OF ANY  
5 CALENDAR YEAR COMMENCING ON OR AFTER JANUARY 1, 2001, THAT SEEK  
6 AUTHORIZATION FOR THE STATE TO RETAIN AND SPEND ALL OR ANY  
7 PORTION OF THE AMOUNT OF EXCESS STATE REVENUES FOR THE STATE  
8 FISCAL YEAR ENDING DURING SAID CALENDAR YEAR, THE EXECUTIVE  
9 DIRECTOR SHALL NOT DETERMINE WHETHER THE CREDIT AUTHORIZED BY  
10 SUBSECTION (3) OF THIS SECTION SHALL BE ALLOWED AND SHALL NOT  
11 PROMULGATE RULES CONTAINING SAID CREDIT UNTIL THE IMPACT OF THE  
12 RESULTS OF SAID ELECTION ON THE AMOUNT OF THE EXCESS STATE  
13 REVENUES TO BE REFUNDED IS ASCERTAINED.

14  
15 (8) IN ADDITION TO ANY OTHER APPLICABLE LIMITATIONS STATED  
16 IN THIS SECTION OR IN PART 2 OF ARTICLE 75 OF TITLE 35, C.R.S., THE  
17 DOLLAR AMOUNT OF TAX CREDITS THAT MAY BE CLAIMED BY ANY  
18 TAXPAYER SHALL NOT EXCEED THE FOLLOWING:

19  
20 (a) FOR INDIVIDUALS FILING FEDERAL INCOME TAX RETURNS AS  
21 MARRIED FILING SEPARATELY, FIFTY THOUSAND DOLLARS PER TAX YEAR,  
22 AND FOR THOSE FILING FEDERAL INCOME TAX RETURNS AS SINGLE OR  
23 MARRIED FILING JOINTLY, ONE HUNDRED THOUSAND DOLLARS PER TAX  
24 YEAR.

25  
26 (b) FOR A CONTROLLED GROUP OF "C" CORPORATIONS, AS DEFINED  
27 IN 26 U.S.C. SEC. 1563(a), ONE HUNDRED THOUSAND DOLLARS PER TAX  
28 YEAR FOR THE ENTIRE AFFILIATED GROUP.

29  
30 (c) FOR QUALIFIED SUBCHAPTER "S" SUBSIDIARIES AND PARENT  
31 CORPORATIONS THEREOF, AND FOR ALL LIMITED LIABILITY COMPANIES  
32 RELATED BY AT LEAST EIGHTY PERCENT OWNERSHIP, ONE HUNDRED  
33 THOUSAND DOLLARS PER TAX YEAR FOR ALL SUCH RELATED  
34 CORPORATIONS IN TOTAL.

35  
36 (d) FOR ALL ENTITIES ELECTING PASS-THROUGH ENTITY STATUS  
37 FOR FEDERAL INCOME TAX PURPOSES, ONE HUNDRED THOUSAND DOLLARS  
38 PER TAX YEAR FOR EACH ENTITY THAT PASSES CREDIT THROUGH TO A  
39 PERSON SUBJECT TO INCOME TAX, SHARED BY THE TAXPAYER OWNERS ON  
40 THE SAME BASIS AS PROFITS AND LOSSES ARE SHARED.

41  
42 **SECTION 4. Effective date - applicability.** This act shall take  
43 effect July 1, 2001, and shall apply to tax years commencing on or after  
44 January 1, 2001.

45  
46 **SECTION 5. Safety clause.** The general assembly hereby finds,  
47 determines, and declares that this act is necessary for the immediate  
48 preservation of the public peace, health, and safety."

49  
50  
51  
52 **HB01-1162** be referred favorably to the Committee on Appropriations.

53  
54  
55  
56

1 **BUSINESS AFFAIRS & LABOR**

2 After consideration on the merits, the Committee recommends the  
3 following:

4  
5 **HB01-1065** be postponed indefinitely.

6  
7  
8 **HB01-1115** be referred to the Committee of the Whole with favorable  
9 recommendation.

10  
11  
12 **HB01-1200** be referred to the Committee of the Whole with favorable  
13 recommendation.

14  
15  
16  
17  
18 **FINANCE**

19 After consideration on the merits, the Committee recommends the  
20 following:

21  
22 **HB01-1057** be referred to the Committee of the Whole with favorable  
23 recommendation.

24  
25  
26 **HB01-1060** be referred to the Committee of the Whole with favorable  
27 recommendation.

28  
29  
30 **HB01-1095** be referred to the Committee of the Whole with favorable  
31 recommendation.

32  
33  
34 **HB01-1128** be referred to the Committee of the Whole with favorable  
35 recommendation.

36  
37  
38 **HB01-1164** be referred to the Committee of the Whole with favorable  
39 recommendation.

40  
41  
42 **HB01-1179** be referred to the Committee of the Whole with favorable  
43 recommendation.

44  
45  
46  
47  
48 **HEALTH, ENVIRONMENT, WELFARE, & INSTITUTIONS**

49 After consideration on the merits, the Committee recommends the  
50 following:

51  
52 **HB01-1029** be amended as follows, and as so amended, be referred to  
53 the Committee on Appropriations with favorable  
54 recommendation:

55  
56 Amend printed bill, page 3, after line 1, insert the following:

1           **"SECTION 1.** 26-2-102.5, Colorado Revised Statutes, is  
2 amended to read:

3  
4           **26-2-102.5. Foster care - Title IV-E of the Social Security Act.**

5 (1) Eligibility of a child for Title IV-E foster care shall be based on the  
6 AFDC rules in effect on ~~June 1, 1995~~: JULY 16, 1996.

7  
8           (2) Such child shall meet all of the following conditions:

9  
10           (a) The placement and care of such child are the responsibility of  
11 the state department of human services or a county department of social  
12 services;

13  
14           (b) Such child has been placed in a foster home or child care  
15 institution as a result of a judicial determination or voluntary placement  
16 agreement;

17  
18           ~~(c) Court proceedings leading to the judicial determination were  
19 initiated in a month in which such child would have been eligible to  
20 receive AFDC under the rules in effect on June 1, 1995, or would have  
21 been eligible except that such child was not living with a caretaker  
22 relative. If such child lived with a caretaker relative within six months  
23 prior to the month in which court proceedings were initiated, such child  
24 shall be eligible.~~ SUCH CHILD:

25  
26           (I) WOULD HAVE RECEIVED AID IN OR FOR THE MONTH IN WHICH  
27 SUCH AGREEMENT OR COURT PROCEEDINGS RESULTING IN SUCH JUDICIAL  
28 DETERMINATION WERE INITIATED;

29  
30           (II) WOULD HAVE RECEIVED THE AID DESCRIBED IN SUBPARAGRAPH  
31 (I) OF THIS PARAGRAPH (c) IF APPLICATION HAD BEEN MADE THEREFOR; OR

32  
33           (III) HAD BEEN LIVING WITH A RELATIVE WITHIN THE SIX MONTHS  
34 PRIOR TO THE MONTH IN WHICH SUCH AGREEMENT OR COURT PROCEEDINGS  
35 RESULTING IN SUCH JUDICIAL DETERMINATION WERE INITIATED, AND SUCH  
36 CHILD WOULD HAVE RECEIVED THE AID DESCRIBED IN SUBPARAGRAPH (I)  
37 OF THIS PARAGRAPH (c) IF IN SUCH MONTH HE OR SHE HAD BEEN LIVING  
38 WITH SUCH RELATIVE AND APPLICATION THEREFOR HAD BEEN MADE.

39  
40           **SECTION 2.** 26-5-104, Colorado Revised Statutes, is amended  
41 BY THE ADDITION OF A NEW SUBSECTION to read:

42  
43           **26-5-104. Funding of child welfare services.** (6.5) THE STATE  
44 DEPARTMENT SHALL ANALYZE AND EVALUATE EXPENDITURES AS  
45 REPORTED BY CHILD PLACEMENT AGENCIES EACH YEAR AND COMPARE  
46 SUCH EXPENDITURES TO COUNTY EXPENDITURES FOR THE PROVISION OF  
47 FOSTER CARE SERVICES. THE STATE DEPARTMENT SHALL PROVIDE, AT  
48 LEAST ON AN ANNUAL BASIS, SUCH ANALYSES AND COMPARISONS TO  
49 COUNTY DEPARTMENTS."

50  
51 Renumber succeeding sections accordingly.

52  
53 Page 3, line 2, strike "(1)" and substitute "(1), (2),".

54  
55 Page 4, after line 10, insert the following:

56

1           "(2) "Child placement agency" means any corporation,  
2 partnership, association, firm, agency, institution, or person, ~~whatsoever~~  
3 UNRELATED TO THE CHILD BEING PLACED, who places or who arranges for  
4 placement for care of any child under the age of eighteen years with any  
5 family, person, or institution. ~~other than persons related to said child.~~ A  
6 child placement agency may place or arrange for the placement of a child  
7 for the purpose of adoption, TREATMENT, or foster care. The natural  
8 parents or guardian of any child who places said child for care with any  
9 facility licensed as a "family child care home" or "child care center" as  
10 defined by this section shall not be deemed a child placement agency.";

11  
12 strike line 15 and substitute the following:

13  
14 "OF A NEW SUBSECTION, to read:".

15  
16 Page 5, strike lines 9 through 11 and substitute the following:

17  
18 "requires. A CHILD".

19  
20 Page 6, strike lines 26 and 27 and substitute the following:

21  
22 "person applying for such a license or certificate has been".

23  
24 Page 7, after line 20, insert the following:

25  
26           "(III) NO CERTIFICATE TO OPERATE A FOSTER CARE HOME SHALL BE  
27 ISSUED BY A COUNTY DEPARTMENT OR A CHILD PLACEMENT AGENCY  
28 LICENSED UNDER THE PROVISIONS OF THIS PART 1 IF ANY ADULT RESIDENT  
29 OF THE HOME HAS BEEN CONVICTED OF ANY ONE OF THE OFFENSES  
30 DESCRIBED IN SUB-SUBPARAGRAPHS (A) TO (E) OF SUBPARAGRAPH (I) OF  
31 THIS PARAGRAPH (a).".

32  
33 Page 9, strike lines 3 through 10.

34  
35 Page 12, line 22, strike "applicant." and substitute "applicant, AND A  
36 RELEASE OF INFORMATION FOR SUCH CHILD PLACEMENT AGENCIES AND  
37 COUNTY DEPARTMENTS THAT HAD PREVIOUSLY CERTIFIED SUCH APPLICANT  
38 TO OBTAIN INFORMATION ABOUT SUCH CERTIFICATION.".

39  
40 Page 14, line 4, strike "IMMEDIATELY ACT TO" and substitute "REQUIRE A  
41 COUNTY DEPARTMENT TO IMMEDIATELY";

42  
43 line 5, after "AND", insert "THE STATE DEPARTMENT MAY";

44  
45 line 14, strike "CHILD CARE CENTER FACILITIES" and substitute "ALL  
46 FACILITIES LICENSED UNDER THIS PART 1, EXCEPT FOR FOSTER CARE  
47 HOMES,";

48  
49 line 15, strike "AND FAMILY CHILD CARE HOME FACILITIES".

50  
51 line 26, strike "NOTWITHSTANDING ANY OTHER";

52  
53 strike line 27.

54  
55 Page 15, strike lines 1 though 4;

56

- 1 line 5, strike "PROVISIONS OF THIS SUB-PARAGRAPH (A);  
2  
3 strike line 8 and substitute "ASCERTAIN WHETHER THE CHILD PLACEMENT  
4 AGENCY ITSELF IS THE SUBJECT OF";  
5  
6 line 12, after "PENDING.", insert "THE COUNTY DEPARTMENT SHALL ALSO  
7 SUSPEND THE REFERRAL OF A CHILD TO A FOSTER HOME WHICH IS UNDER  
8 INVESTIGATION FOR CHILD ABUSE OR DOMESTIC VIOLENCE WHILE SUCH  
9 INVESTIGATION IS PENDING."  
10  
11 Page 16, line 24, after "A", insert "COUNTY-CERTIFIED".  
12  
13 Page 25, line 17, strike "LICENSING;" and substitute "LICENSING; AND";  
14  
15 line 21, strike "DEPARTMENT; AND" and substitute "DEPARTMENT."  
16  
17 strike lines 22 and 23.  
18  
19 Page 26, strike lines 25 through 27 and substitute the following:  
20  
21 "(6) THE STATE BOARD SHALL PROMULGATE ALL REASONABLE AND  
22 NECESSARY RULES SETTING FORTH PROCEDURES AND PRIORITIES  
23 REGARDING PLACEMENT OF A CHILD IN FOSTER CARE IN THE HOME OF A  
24 RELATIVE."  
25  
26 Page 27, strike lines 1 through 20.  
27  
28 Page 28, line 21, strike "TO ALL OTHER";  
29  
30 line 22, strike "COUNTY DEPARTMENTS IN THE STATE AND".  
31  
32  
33  
34 **HB01-1048** be referred to the Committee of the Whole with favorable  
35 recommendation.  
36  
37  
38 **HB01-1096** be referred to the Committee of the Whole with favorable  
39 recommendation.  
40  
41  
42  
43  
44 **LOCAL GOVERNMENT**  
45 After consideration on the merits, the Committee recommends the  
46 following:  
47  
48 **HB01-1123** be postponed indefinitely.  
49  
50  
51 **HB01-1132** be referred favorably to the Committee on Appropriations.  
52  
53  
54  
55
-



1 **PRINTING REPORT**

2  
3 The Chief Clerk reports the following bills have been correctly printed:  
4 **HB01-1211, 1212, 1213, 1214, 1215, 1216.**

5  
6  
7  
8 **THIRD READING OF BILL--FINAL PASSAGE**

9  
10 The following bill was considered on Third Reading. The title was  
11 publicly read. Reading of the bill at length was dispensed with by  
12 unanimous consent.

13  
14 **HB01-1117** by Representative(s) Witwer; also Senator(s) Evans--  
15 Concerning the prerequisite that public entities obtain the  
16 advice of the sex offender management board prior to  
17 taking certain actions related to the provisions of treatment  
18 for juvenile sex offenders.

19  
20 The question being "Shall the bill pass?".

21 A roll call vote was taken. As shown by the following recorded vote, a  
22 majority of those elected to the House voted in the affirmative and the bill  
23 was declared **passed**.

24  
25 YES 62                      NO 0                      EXCUSED 3                      ABSENT 0

|    |           |   |          |   |            |   |             |   |
|----|-----------|---|----------|---|------------|---|-------------|---|
| 26 |           |   |          |   |            |   |             |   |
| 27 | Alexander | Y | Groff    | Y | Miller     | Y | Spence      | Y |
| 28 | Bacon     | Y | Grossman | Y | Mitchell   | Y | Spradley    | Y |
| 29 | Berry     | Y | Hefley   | Y | Nuñez      | Y | Stafford    | Y |
| 30 | Borodkin  | Y | Hodge    | Y | Paschall   | Y | Stengel     | Y |
| 31 | Boyd      | Y | Hoppe    | Y | Plant      | Y | Swenson     | Y |
| 32 | Cadman    | Y | Jahn     | Y | Ragsdale   | Y | Tapia       | Y |
| 33 | Chavez    | E | Jameson  | Y | Rhodes     | Y | Tochtrop    | Y |
| 34 | Clapp     | Y | Johnson  | Y | Rippy      | Y | Veiga       | Y |
| 35 | Cloer     | Y | Kester   | Y | Romanoff   | Y | Vigil       | E |
| 36 | Coleman   | Y | King     | Y | Saliman    | Y | Webster     | Y |
| 37 | Crane     | Y | Larson   | Y | Sanchez    | Y | Weddig      | Y |
| 38 | Daniel    | Y | Lawrence | Y | Schultheis | Y | White       | Y |
| 39 | Decker    | Y | Lee      | E | Scott      | Y | Williams S. | Y |
| 40 | Fairbank  | Y | Mace     | Y | Sinclair   | Y | Williams T. | Y |
| 41 | Fritz     | Y | Madden   | Y | Smith      | Y | Witwer      | Y |
| 42 | Garcia    | Y | Marshall | Y | Snook      | Y | Young       | Y |
| 43 |           |   |          |   |            |   | Mr. Speaker | Y |

44  
45 Co-sponsors added: Representatives Bacon, Boyd, Mace, Miller, Romanoff,  
46 Stafford.

47  
48  
49  
50 **LAY OVER OF CALENDAR ITEMS**

51  
52 On motion of Representative Spradley, Consideration of General Orders  
53 (**HB01-1129, 1131, 1146, 1025, 1067, 1063**) was laid over until  
54 January 26, retaining place on Calendar.

1 On motion of Representative Spradley, the House adjourned until  
2 9:00 a.m., January 26, 2001.

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Approved:

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DOUG DEAN,  
Speaker

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11

12 Attest:

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14 JUDITH RODRIGUE,

15 Chief Clerk

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