

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

ENGROSSED

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

LLS NO. 09-0395.01 Esther van Mourik

HOUSE BILL 09-1001

HOUSE SPONSORSHIP

Rice, Balmer, Liston, McFadyen, Solano

SENATE SPONSORSHIP

Heath, Mitchell, Scheffel, Schwartz, Veiga

House Committees

Business Affairs and Labor
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF AN INCOME TAX CREDIT TO**
102 **INCENTIVIZE COLORADO JOB GROWTH.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Establishes the Colorado job growth incentive tax credit for a specified period. Upon conditional approval and annual calculation by the Colorado economic development commission, allows a taxpayer to claim a credit for a specified number of consecutive months within the specified period the credit is available. Allows the commission to allocate the credits by issuing credit certificates to taxpayers who meet established criteria for a project in the state. Allows the credit to be carried forward

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

HOUSE
Amended 2nd Reading
February 24, 2009

for a specified time but not refunded. Establishes the methods for issuing credit certificates as well as the application process. Specifies how a credit is to be calculated. Grants the department of revenue rule-making authority.

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

2 **SECTION 1.** Part 5 of article 22 of title 39, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **39-22-531. Colorado job growth incentive tax credit - rules -**
6 **definitions - repeal.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
7 OTHERWISE REQUIRES:

8 (a) (I) "AFFILIATED GROUP" MEANS ONE OR MORE CHAINS OF
9 PERSONS CONNECTED THROUGH STOCK OR OTHER OWNERSHIP INTERESTS
10 WITH A PERSON IF:

11 (A) ONE OR MORE OF THE OTHER PERSONS IN THE CHAIN OWNS
12 INTERESTS POSSESSING MORE THAN FIFTY PERCENT OF THE VOTING POWER
13 OF ALL CLASSES OF OWNERSHIP INTERESTS EXCEPT OWNERSHIP INTERESTS
14 OF THE COMMON PARENT AND MORE THAN FIFTY PERCENT OF EACH CLASS
15 OF NONVOTING OWNERSHIP INTERESTS OF EACH OF THE PERSONS EXCEPT
16 OWNERSHIP INTERESTS OF THE COMMON PARENT; AND

17 (B) THE COMMON PARENT OWNS INTERESTS POSSESSING MORE
18 THAN FIFTY PERCENT OF THE VOTING POWER OF ALL CLASSES OF
19 OWNERSHIP INTERESTS AND MORE THAN FIFTY PERCENT OF EACH CLASS OF
20 THE NONVOTING OWNERSHIP INTERESTS OF AT LEAST ONE OF THE OTHER
21 PERSONS IN THE CHAIN.

22 (II) AS USED IN THIS PARAGRAPH (a), THE TERM "OWNERSHIP
23 INTEREST" DOES NOT INCLUDE NONVOTING STOCK THAT IS LIMITED AND

1 PREFERRED AS TO DIVIDENDS; EMPLOYER SECURITIES, WITHIN THE
2 MEANING OF SECTION 409 (1) OF THE INTERNAL REVENUE CODE, WHILE
3 SUCH SECURITIES ARE HELD UNDER A TAX CREDIT EMPLOYEE STOCK
4 OWNERSHIP PLAN; OR QUALIFYING EMPLOYER SECURITIES, WITHIN THE
5 MEANING OF SECTION 4975 (e) (8) OF THE INTERNAL REVENUE CODE,
6 WHILE SUCH SECURITIES ARE HELD UNDER AN EMPLOYEE STOCK
7 OWNERSHIP PLAN THAT MEETS THE REQUIREMENTS OF SECTION 4975 (e)
8 (7) OF THE INTERNAL REVENUE CODE.

9 (III) AS USED IN THIS PARAGRAPH (a), THE TERM "PERSON" DOES
10 NOT INCLUDE NATURAL PERSONS.

11 (b) "COMMISSION" MEANS THE COLORADO ECONOMIC
12 DEVELOPMENT COMMISSION CREATED IN SECTION 24-46-102, C.R.S.

13 (c) "CREDIT CERTIFICATE" MEANS A STATEMENT ISSUED BY THE
14 COMMISSION CERTIFYING THAT THE PROJECT QUALIFIES FOR THE JOB
15 GROWTH INCENTIVE TAX CREDIT ALLOWED IN THIS SECTION AND
16 SPECIFYING THE AMOUNT OF THE CREDIT ALLOWED.

17 (d) "CREDIT PERIOD" MEANS A PERIOD OF UP TO SIXTY
18 CONSECUTIVE MONTHS FOR WHICH A TAXPAYER MAY CLAIM A CREDIT
19 ALLOWED IN THIS SECTION THAT IS CALCULATED ANNUALLY BY THE
20 COMMISSION. THE CREDIT PERIOD SHALL NOT EXTEND PAST DECEMBER
21 31, 2018.

22 (e) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

23 (f) "NET JOB GROWTH" MEANS THE DIFFERENCE BETWEEN THE
24 TOTAL NUMBER OF FULL-TIME EQUIVALENT EMPLOYEES EMPLOYED BY THE
25 TAXPAYER IN THE STATE FOR THE PROJECT AT THE END OF EACH
26 CALENDAR YEAR OF THE PROJECT AND THE TOTAL NUMBER OF FULL-TIME
27 EQUIVALENT EMPLOYEES EMPLOYED BY THE TAXPAYER IN THE STATE FOR

1 THE PROJECT AT THE COMMENCEMENT OF THE PROJECT.

2 (g) "PERSON" SHALL HAVE THE SAME MEANING AS PROVIDED IN
3 SECTION 39-21-101 (3).

4 (h) "PROJECT" MEANS A PROJECT THAT ENCOURAGES, PROMOTES,
5 AND STIMULATES ECONOMIC DEVELOPMENT IN KEY ECONOMIC SECTORS,
6 INCLUDING, BUT NOT LIMITED TO, AEROSPACE, BIOSCIENCE, LIFE SCIENCE,
7 CLEAN ENERGY TECHNOLOGY, TOURISM, FILM AND TELEVISION
8 PRODUCTION, AND INFORMATION TECHNOLOGY, AND THAT IS APPROVED
9 BY THE COMMISSION AS SPECIFIED IN SUBSECTION (3) OF THIS SECTION.

10 (i) "TAXPAYER" MEANS ANY PERSON DOING BUSINESS IN THE
11 STATE. FOR PURPOSES OF THIS SECTION, TAXPAYER INCLUDES AN
12 AFFILIATED GROUP.

13 (2) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
14 1, 2009, BUT PRIOR TO JANUARY 1, 2015, AT THE DISCRETION OF THE
15 COMMISSION AS SPECIFIED IN SUBSECTION (3) OF THIS SECTION, THERE
16 MAY BE ALLOWED TO ANY TAXPAYER AN ANNUAL JOB GROWTH INCENTIVE
17 TAX CREDIT WITH RESPECT TO THE INCOME TAXES IMPOSED BY THIS
18 ARTICLE THAT A TAXPAYER MAY CLAIM FOR A CREDIT PERIOD IN AN
19 AMOUNT DETERMINED BY THE COMMISSION PURSUANT TO SUBSECTION (5)
20 OF THIS SECTION.

21 (3) THE COMMISSION MAY APPROVE ANY JOB GROWTH INCENTIVE
22 TAX CREDITS ALLOWED PURSUANT TO SUBSECTION (2) OF THIS SECTION
23 SUBJECT TO THE FOLLOWING:

24 (a) DURING A CREDIT PERIOD A PROJECT SHALL:

25 (I) (A) EXCEPT AS PROVIDED IN SUB-SUBPARAGRAPH (B) OF THIS
26 SUBPARAGRAPH (I), BRING A NET JOB GROWTH OF AT LEAST TWENTY NEW
27 JOBS TO THE STATE WITH AN AVERAGE YEARLY WAGE OF AT LEAST

1 ONE HUNDRED TEN PERCENT OF THE AVERAGE YEARLY WAGE OF THE
2 COUNTY IN WHICH THE TAXPAYER IS LOCATED.

3 (B) IF THE PROJECT WILL BE LOCATED IN A DESIGNATED ENHANCED
4 RURAL ENTERPRISE ZONE AS SUCH ZONE IS DESCRIBED IN SECTION
5 39-30-103.2 (1) AND THE LOCAL COMMUNITY OF THE DESIGNATED
6 ENHANCED RURAL ENTERPRISE ZONE PROVIDES RATIONALE TO THE
7 COMMISSION OUTLINING THE PROJECT'S ECONOMIC IMPORTANCE TO THE
8 COMMUNITY, THE PROJECT SHALL, DURING A CREDIT PERIOD, BRING A NET
9 JOB GROWTH OF AT LEAST FIVE NEW JOBS TO THE STATE WITH AN AVERAGE
10 YEARLY WAGE OF AT LEAST ONE HUNDRED TEN PERCENT OF THE AVERAGE
11 YEARLY WAGE OF THE ENHANCED RURAL ENTERPRISE ZONE IN WHICH THE
12 TAXPAYER IS LOCATED.

13 (II) RESULT IN THE RETENTION OF ANY NEW EMPLOYEES HIRED FOR
14 THE PROJECT FOR AT LEAST ONE YEAR; AND

15 (III) BE APPROVED BY THE COMMISSION ONLY IF THE PROJECT
16 WOULD NOT OCCUR BUT FOR THE CREDIT ALLOWED IN THIS SECTION.

17 (b) A TAXPAYER SHALL SUBMIT A COMPLETE WRITTEN
18 APPLICATION FOR A CREDIT ALLOWED IN THIS SECTION TO THE
19 COMMISSION BEFORE THE PROJECT COMMENCES IN THE STATE. THE
20 APPLICATION SHALL INCLUDE:

21 (I) AN IDENTIFICATION OF THE SPECIFIC JOBS THAT WILL BE
22 CREATED.

23 (II) AN IDENTIFICATION OF THE COST DIFFERENTIAL IN THE
24 PROJECTED COSTS OF THE PROJECT COMPARED TO THE PROJECTED COSTS
25 WERE THE PROJECT COMMENCED IN A COMPETING STATE. THE COST
26 DIFFERENTIAL SHALL INCLUDE ANY IMPACT OF THE COMPETING STATE'S
27 INCENTIVE PROGRAMS AND MAY INCLUDE:

1 (A) SPECIFIC COSTS FOR LABOR, UTILITIES, TAXES, AND ANY OTHER
2 COSTS OF A COMPETING STATE'S SITE; AND

3 (B) THE COST STRUCTURE OF THE TAXPAYER'S INDUSTRY IN THE
4 COMPETING STATE.

5 (III) DOCUMENTATION TO DEMONSTRATE THAT WITHOUT THE
6 CREDIT ALLOWED IN THIS SECTION, THE PROJECT WOULD NOT OCCUR IN
7 THIS STATE. SUCH DOCUMENTATION SHALL INCLUDE INFORMATION THAT
8 INDICATES THAT:

9 (A) THE TAXPAYER COULD REASONABLY AND EFFICIENTLY
10 LOCATE THE PROJECT OUTSIDE OF THIS STATE;

11 (B) AT LEAST ONE OTHER STATE IS BEING CONSIDERED FOR THE
12 PROJECT;

13 (C) RECEIPT OF THE CREDIT ALLOWED IN THIS SECTION IS A MAJOR
14 FACTOR IN THE TAXPAYER'S DECISION; AND

15 (D) WITHOUT THE CREDIT ALLOWED IN THIS SECTION, THE
16 TAXPAYER IS NOT LIKELY TO COMMENCE THE PROJECT IN THE STATE.

17 (c) IN THE EXERCISE OF THE COMMISSION'S DISCRETION GRANTED
18 BY THIS SUBSECTION (3), THE COMMISSION SHALL ONLY CONSIDER THE
19 FOLLOWING:

20 (I) THE ECONOMIC HEALTH OF THIS STATE;

21 (II) THE ECONOMIC VIABILITY OF THE PROPOSED NEW JOBS;

22 (III) THE ECONOMIC BENEFITS TO THE STATE OF THE NEW JOBS;

23 AND

24 (IV) THE MAXIMUM AMOUNT OF THE CREDIT NEEDED TO
25 ATTRACT THE NEW JOBS TO THIS STATE.

26 (4) (a) (I) THE COMMISSION SHALL REVIEW EACH APPLICATION FOR
27 A CREDIT ALLOWED IN THIS SECTION SUBMITTED BY ANY TAXPAYER.

1 BASED ON THE APPLICATION SUBMITTED, THE COMMISSION MAY OFFER
2 CONDITIONAL APPROVAL TO A TAXPAYER FOR A CREDIT. THE
3 CONDITIONAL APPROVAL SHALL INCLUDE THE MAXIMUM AMOUNT OF THE
4 CREDIT AVAILABLE TO THE TAXPAYER FOR THE CREDIT PERIOD
5 CALCULATED PURSUANT TO PARAGRAPH (a) OF SUBSECTION (5) OF THIS
6 SECTION AND THE SPECIFIC TERMS THAT SHALL BE MET TO QUALIFY FOR
7 THE CREDIT.

8 (II) A TAXPAYER THAT RECEIVES CONDITIONAL APPROVAL FOR A
9 CREDIT ALLOWED IN THIS SECTION SHALL NOTIFY THE COMMISSION
10 PROMPTLY IF THE PROJECT IS CANCELED OR OTHERWISE BECOMES
11 INELIGIBLE FOR THE ESTIMATED CREDIT, IN WHICH CASE THE CONDITIONAL
12 APPROVAL MAY BE CANCELED. THE CONDITIONAL APPROVAL SHALL BE
13 VOID AND ANY CREDIT CLAIMED SHALL BE REPAID IF A TAXPAYER THAT
14 RECEIVES CONDITIONAL APPROVAL DOES NOT COMMENCE THE PROJECT
15 WITHIN ONE AND A HALF YEARS OF THE RECEIPT OF THE CONDITIONAL
16 APPROVAL OR FAILS TO MEET THE TERMS OF SUBSECTION (3) OF THIS
17 SECTION.

18 (b) BY MARCH 1 OF THE CALENDAR YEAR AFTER THE
19 COMMENCEMENT OF THE PROJECT, AND EACH MARCH 1 OF ANY CALENDAR
20 YEAR FOLLOWING A YEAR OF THE CREDIT PERIOD, A TAXPAYER THAT
21 RECEIVED CONDITIONAL APPROVAL AS SPECIFIED IN PARAGRAPH (a) OF
22 THIS SUBSECTION (4) SHALL SUBMIT AN ANNUAL REQUEST FOR A CREDIT
23 CERTIFICATE. THE REQUEST SHALL INCLUDE DOCUMENTS THAT DETAIL
24 THE NUMBER OF EMPLOYEES HIRED FOR THE PROJECT, THE NET JOB
25 GROWTH FOR THE TAXPAYER, ALL DOCUMENTATION NECESSARY TO
26 CALCULATE THE CREDIT AS SPECIFIED IN SUBSECTION (5) OF THIS SECTION,
27 AND ANY OTHER INFORMATION REQUESTED BY THE COMMISSION.

1 (c) IF THE PROJECT HAS COMMENCED AND THE PROJECT MEETS OR
2 EXCEEDS THE CONDITIONS OF A PROJECT AS SPECIFIED IN PARAGRAPHS (a)
3 AND (b) OF SUBSECTION (3) OF THIS SECTION, THE COMMISSION SHALL
4 CALCULATE THE ANNUAL AMOUNT OF THE CREDIT ALLOWED IN THIS
5 SECTION AS SPECIFIED IN PARAGRAPH (b) OF SUBSECTION (5) OF THIS
6 SECTION AND SHALL ISSUE A CREDIT CERTIFICATE FOR THAT CALENDAR
7 YEAR IN THAT AMOUNT TO THE TAXPAYER. THE CREDIT CERTIFICATE
8 SHALL BE SUBMITTED BY THE TAXPAYER TO THE DEPARTMENT WITH THE
9 TAXPAYER'S INCOME TAX RETURN FOR THE TAX YEAR THAT INCLUDES THE
10 DECEMBER 31 OF THE CALENDAR YEAR FOR WHICH THE CREDIT
11 CERTIFICATE IS ISSUED.

12 (5) THE CREDIT ALLOWED IN THIS SECTION SHALL BE CALCULATED
13 BY THE COMMISSION AS FOLLOWS:

14 (a) FOR THE MAXIMUM AMOUNT OF THE CREDIT ALLOWED IN THIS
15 SECTION AVAILABLE TO THE TAXPAYER FOR THE CREDIT PERIOD, THE
16 COMMISSION SHALL MULTIPLY THE ESTIMATED NET JOB GROWTH FOR EACH
17 OF THE YEARS IN THE CREDIT PERIOD BY FIFTY PERCENT OF THE
18 TAXPAYER'S TOTAL ESTIMATED TAXES IMPOSED ON THE EMPLOYER EACH
19 YEAR FOR THE NEW EMPLOYEES OF THE PROJECT UNDER THE "FEDERAL
20 INSURANCE CONTRIBUTIONS ACT", 26 U.S.C. SEC. 3111 (a) AND (b). THE
21 MAXIMUM AMOUNT OF THE CREDIT SHALL BE THE RESULT OF THIS
22 CALCULATION OR SUCH LESSER AMOUNT AS THE COMMISSION DEEMS
23 PROPER UNDER ITS DISCRETION AS SPECIFIED IN PARAGRAPH (c) OF
24 SUBSECTION (3) OF THIS SECTION.

25 (b) FOR THE ANNUAL AMOUNT OF THE CREDIT ALLOWED IN THIS
26 SECTION AVAILABLE TO THE TAXPAYER, THE COMMISSION SHALL
27 MULTIPLY THE ACTUAL NET JOB GROWTH FOR THAT YEAR BY FIFTY

1 PERCENT OF THE TAXPAYER'S TAXES IMPOSED ON THE EMPLOYER FOR THE
2 NEW EMPLOYEES OF THE PROJECT UNDER THE "FEDERAL INSURANCE
3 CONTRIBUTIONS ACT", 26 U.S.C. SEC. 3111 (a) AND (b). THE AMOUNT OF
4 THE CREDIT ALLOWED IN THIS SECTION SHALL BE THE RESULT OF THIS
5 CALCULATION; EXCEPT THAT NO CREDIT CERTIFICATE SHALL BE ISSUED IF
6 THE AGGREGATE OF ALL CREDITS CLAIMED OR TO BE CLAIMED BY THE
7 TAXPAYER, INCLUDING THE CURRENT CREDIT CERTIFICATE, EXCEEDS THE
8 MAXIMUM AMOUNT OF THE CREDIT AS CALCULATED PURSUANT TO
9 PARAGRAPH (a) OF THIS SUBSECTION (5).

10 (6) IF THE AMOUNT OF THE CREDIT ALLOWED IN THIS SECTION
11 EXCEEDS THE AMOUNT OF INCOME TAXES OTHERWISE DUE ON THE
12 TAXPAYER'S INCOME IN THE INCOME TAX YEAR FOR WHICH THE CREDIT IS
13 BEING CLAIMED, THE AMOUNT OF THE CREDIT NOT USED AS AN OFFSET
14 AGAINST INCOME TAXES IN THE CURRENT INCOME TAX YEAR MAY BE
15 CARRIED FORWARD AND USED AS A CREDIT AGAINST SUBSEQUENT YEARS'
16 INCOME TAX LIABILITY FOR A PERIOD NOT TO EXCEED TEN YEARS AND
17 SHALL BE APPLIED FIRST TO THE EARLIEST INCOME TAX YEARS POSSIBLE.
18 ANY CREDIT REMAINING AFTER SAID PERIOD SHALL NOT BE REFUNDED OR
19 CREDITED TO THE TAXPAYER.

20 (7) THE COMMISSION OR ITS DESIGNEE MAY AUDIT THE ACCOUNTS
21 OF A TAXPAYER UP TO TWELVE MONTHS FOLLOWING THE ISSUANCE OF ANY
22 CREDIT CERTIFICATE.

23 (8) THE COMMISSION SHALL INCLUDE INFORMATION REGARDING
24 ALL CONDITIONAL APPROVALS GRANTED AND CREDIT CERTIFICATES
25 ISSUED PURSUANT TO THIS SECTION, INCLUDING THE CREDITS CLAIMED,
26 THE NAMES OF THE RECIPIENTS OF THE CREDITS, AND THE AMOUNTS
27 CLAIMED, IN ITS ANNUAL REPORT REQUIRED TO BE PRESENTED TO THE

1 GENERAL ASSEMBLY PURSUANT TO SECTION 24-46-104 (2), C.R.S.

2 (9) IF A TAXPAYER RECEIVING A CREDIT ALLOWED IN THIS SECTION
3 IS A PARTNERSHIP, LIMITED LIABILITY COMPANY, S CORPORATION, OR
4 SIMILAR PASS-THROUGH ENTITY, THE TAXPAYER MAY ALLOCATE THE
5 CREDIT AMONG ITS PARTNERS, SHAREHOLDERS, MEMBERS, OR OTHER
6 CONSTITUENT TAXPAYERS IN ANY MANNER AGREED TO BY SUCH
7 PARTNERS, SHAREHOLDERS, MEMBERS, OR OTHER CONSTITUENT
8 TAXPAYERS. THE TAXPAYER SHALL CERTIFY TO THE COMMISSION AND THE
9 DEPARTMENT THE AMOUNT OF THE CREDIT ALLOCATED TO EACH PARTNER,
10 SHAREHOLDER, MEMBER, OR OTHER CONSTITUENT TAXPAYER, AND THE
11 COMMISSION SHALL ISSUE CREDIT CERTIFICATES IN THE APPROPRIATE
12 AMOUNTS TO EACH PARTNER, SHAREHOLDER, MEMBER, OR OTHER
13 CONSTITUENT TAXPAYER. EACH PARTNER, SHAREHOLDER, MEMBER, OR
14 OTHER CONSTITUENT TAXPAYER SHALL BE ALLOWED TO CLAIM SUCH
15 AMOUNT SUBJECT TO ANY RESTRICTIONS SET FORTH IN THIS SECTION.

16 (10) NO LATER THAN SEPTEMBER 1, 2010, AND NO LATER THAN
17 SEPTEMBER 1 OF EACH YEAR THEREAFTER THROUGH SEPTEMBER 1, 2019,
18 THE COMMISSION SHALL PROVIDE THE DEPARTMENT WITH AN ELECTRONIC
19 REPORT OF THE TAXPAYERS RECEIVING A CREDIT ALLOWED IN THIS
20 SECTION FOR THAT CALENDAR YEAR, OR ANY CREDITS DISALLOWED
21 PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (4)
22 OF THIS SECTION FOR ANY YEAR, THAT INCLUDES THE FOLLOWING
23 INFORMATION:

- 24 (a) THE TAXPAYER'S NAME;
- 25 (b) THE TAXPAYER'S COLORADO ACCOUNT NUMBER AND FEDERAL
26 EMPLOYER IDENTIFICATION NUMBER;
- 27 (c) THE AMOUNT OF THE CREDIT ALLOWED IN THIS SECTION; AND

1 (d) ANY ASSOCIATED TAXPAYER'S NAMES, COLORADO ACCOUNT
2 NUMBERS, AND FEDERAL EMPLOYER IDENTIFICATION NUMBERS OR SOCIAL
3 SECURITY NUMBERS, IF THE CREDIT ALLOWED IN THIS SECTION IS
4 ALLOCATED FROM A PASS-THROUGH ENTITY PURSUANT TO SUBSECTION (9)
5 OF THIS SECTION.

6 (11) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY
7 PROMULGATE RULES AS MAY BE NECESSARY TO ADMINISTER AND ENFORCE
8 ANY PROVISION OF THIS SECTION. THE RULES SHALL BE PROMULGATED IN
9 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.

10 (12) ANY TAXPAYER WHO OFFSETS A TAX DEFICIENCY WITH A
11 CREDIT ALLOWED IN THIS SECTION THAT IS DISALLOWED PURSUANT TO
12 THIS SECTION SHALL BE LIABLE FOR SUCH TAX DEFICIENCY, INTEREST, AND
13 PENALTIES AS MAY BE SPECIFIED IN THIS ARTICLE OR OTHERWISE
14 PROVIDED BY LAW.

15 (13) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2025.

16 **SECTION 2.** 39-22-622 (4), Colorado Revised Statutes, is
17 amended to read:

18 **39-22-622. Refunds.** (4) The provisions of subsection (2) of this
19 section shall not apply to any return that is being audited or to any return
20 that may take longer than normal to process due to the mathematical or
21 clerical errors contained in said return, ~~or~~ to unforeseen delays caused by
22 the failure of processing equipment, OR BECAUSE OF A TAX CREDIT
23 ALLOWED IN SECTION 39-22-531. Such determination shall be made in
24 good faith by the department OF REVENUE. Any refund attributable to a
25 return ~~which~~ THAT takes longer than normal to process for reasons
26 specified in this subsection (4) shall be subject to the requirements of
27 section 39-22-604 (9).

1 **SECTION 3. Act subject to petition - effective date.** This act
2 shall take effect at 12:01 a.m. on the day following the expiration of the
3 ninety-day period after final adjournment of the general assembly that is
4 allowed for submitting a referendum petition pursuant to article V,
5 section 1 (3) of the state constitution, (August 4, 2009, if adjournment
6 sine die is on May 6, 2009); except that, if a referendum petition is filed
7 against this act or an item, section, or part of this act within such period,
8 then the act, item, section, or part, if approved by the people, shall take
9 effect on the date of the official declaration of the vote thereon by
10 proclamation of the governor.