

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 21-0476.01 Esther van Mourik x4215

HOUSE BILL 21-1311

HOUSE SPONSORSHIP

Sirota and Weissman,

SENATE SPONSORSHIP

Hansen and Moreno,

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING INCOME TAX, AND, IN CONNECTION THEREWITH, ■■■■**
102 **REQUIRING ADDITIONS TO COLORADO TAXABLE INCOME IN**
103 **AMOUNTS RELATED TO LIMITING CERTAIN FEDERAL ITEMIZED**
104 **DEDUCTIONS, EXTENDING THE LIMIT ON THE FEDERAL**
105 **DEDUCTION ALLOWED UNDER SECTION 199A OF THE INTERNAL**
106 **REVENUE CODE, LIMITING THE DEDUCTION FOR CONTRIBUTIONS**
107 **MADE TO 529 PLANS, DISALLOWING AN ENHANCED FEDERAL**
108 **DEDUCTION FOR FOOD AND BEVERAGE EXPENSES AT**
109 **RESTAURANTS, AND REPEALING THE CAPITAL GAINS**
110 **SUBTRACTION; ALLOWING A SUBTRACTION FROM COLORADO**
111 **TAXABLE INCOME IN AMOUNTS RELATED TO REPEALING THE CAP**
112 **ON THE DEDUCTION FOR CERTAIN SOCIAL SECURITY INCOME;**
113 **REDUCING STATE INCOME TAX REVENUE BY INCREASING THE**

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

101 EARNED INCOME TAX CREDIT, FUNDING THE CHILD TAX CREDIT,
102 AND ALLOWING A TEMPORARY INCOME TAX CREDIT FOR A
103 BUSINESS EQUAL TO A PERCENTAGE OF THE CONVERSION COSTS
104 TO CONVERT THE BUSINESS TO A WORKER-OWNED COOP, AN
105 EMPLOYEE STOCK OWNERSHIP PLAN, OR AN EMPLOYEE
106 OWNERSHIP TRUST; INCREASING STATE INCOME TAX REVENUE
107 BY MODIFYING THE COMPUTATION OF THE CORPORATE INCOME
108 TAX RECEIPTS FACTOR TO MAKE IT MORE CONGRUENT WITH
109 COMBINED REPORTING; PREVENTING CORPORATIONS FROM
110 USING TAX SHELTERS IN FOREIGN JURISDICTIONS FOR THE
111 PURPOSE OF TAX AVOIDANCE; CLARIFYING THAT CERTAIN
112 CAPTIVE INSURANCE COMPANIES ARE NOT EXEMPT FROM
113 INCOME TAX; AND MAKING AN APPROPRIATION.

Bill Summary

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

Section 2 of the bill modifies how taxable income is determined for individuals for purposes of the state income tax. Specifically, it:

- Imposes a cap for taxpayers with adjusted gross incomes equal to or exceeding \$400,000 on certain itemized deductions claimed under the internal revenue code;
- Repeals, for social security income that is included in federal taxable income only, the cap on the deduction for pension and annuity income received;
- Adds a cap, per taxpayer per beneficiary, on the deduction for contributions made to 529 plans;
- Requires individual taxpayers to add amounts of federal taxable income that are equal to the enhanced federal deductions for food and beverage in a restaurant for the 2022 income year; and
- Extends the limit on the federal deduction allowed under section 199A of the internal revenue code.

Section 3 increases the earned income tax credit to 20% for income tax years commencing on or after January 1, 2022, and applies the

lowered minimum age for individuals without a qualifying child in the federal "American Rescue Plan Act of 2021" to the state credit for income tax years commencing on or after January 1, 2022.

Section 4 funds the child tax credit for income tax years commencing on or after January 1, 2022, and allows a child tax credit in the state regardless of the federal requirement that a qualifying child must have a social security number for the federal child tax credit. Section 4 also specifies that if the changes to the federal child tax credit in the "American Rescue Plan Act of 2021" are no longer in effect, the percentages of the state child tax credit are increased.

Sections 5 through 7 make the state's corporate income tax more uniform compared to other states by replacing the current combined reporting standard with the multistate tax commission's standard. In addition, these sections modify the computation of the receipts factor to make it more congruent with the unitary business principle.

In addition to making the state's corporate income tax more uniform compared to other states, **section 6** also prevents corporations from using tax shelters in foreign jurisdictions for the purpose of tax avoidance.

Section 7 also modifies how taxable income is determined for C corporations for purposes of the state income tax. Specifically, it requires corporate taxpayers to add amounts of federal taxable income that are equal to the enhanced federal deductions for food and beverage in a restaurant for the 2022 income year.

Section 8 repeals a state subtraction for certain capital gains incurred.

Section 9 creates a temporary income tax credit for a business for a percentage of the conversion costs to convert the business to a worker-owned coop, an employee stock ownership plan, or an employee ownership trust.

Sections 10 through 13 address the avoidance of income tax by certain captive insurance companies.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) This act makes certain changes to the state's income tax code
5 that over the span of several years are revenue neutral; and

6 (b) The purposes of this act are:

7 (I) To conform Colorado's tax code with provisions commonly

1 used in other states, so that Colorado is less of an outlier around the
2 country in how taxpayers compute their taxes owed;

3 (II) To reduce tax avoidance by updating provisions of Colorado's
4 tax code concerning certain business structures; and

5 (III) To adjust the availability of certain tax expenditures so that
6 the availability and extent of tax expenditures are more fairly distributed
7 across all taxpayers.

8 **SECTION 2.** In Colorado Revised Statutes, 39-22-104, **amend**
9 (3)(o), (4)(f)(III), (4)(i)(II), and (4)(i)(III); and **add** (3)(p), (3)(q), and
10 (4)(i)(V) as follows:

11 **39-22-104. Income tax imposed on individuals, estates, and**
12 **trusts - single rate - report - legislative declaration - definitions -**
13 **repeal.** (3) There shall be added to the federal taxable income:

14 (o) For income tax years commencing on or after January 1, 2021,
15 but before ~~January 1, 2023~~, JANUARY 1, 2026, an amount equal to the
16 deduction allowed under section 199A of the internal revenue code for a
17 taxpayer who files a single return and whose adjusted gross income is
18 greater than five hundred thousand dollars, and for taxpayers who file a
19 joint return and whose adjusted gross income is greater than one million
20 dollars; except that this subsection (3)(o) does not apply to a taxpayer
21 who files a schedule F, profit or loss from farming, or successor form, as
22 an attachment to a federal income tax return.

23 (p) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
24 1, 2022, FOR TAXPAYERS WHO CLAIM ITEMIZED DEDUCTIONS AS DEFINED
25 IN SECTION 63 (d) OF THE INTERNAL REVENUE CODE AND WHO HAVE
26 FEDERAL ADJUSTED GROSS INCOME IN THE INCOME TAX YEAR EQUAL TO OR
27 EXCEEDING FOUR HUNDRED THOUSAND DOLLARS:

1 (I) FOR A TAXPAYER WHO FILES A SINGLE RETURN, THE AMOUNT
2 BY WHICH THE ITEMIZED DEDUCTIONS DEDUCTED FROM GROSS INCOME
3 UNDER SECTION 63 (a) OF THE INTERNAL REVENUE CODE EXCEED THIRTY
4 THOUSAND DOLLARS; AND

5 (II) FOR TAXPAYERS WHO FILE A JOINT RETURN, THE AMOUNT BY
6 WHICH THE ITEMIZED DEDUCTIONS DEDUCTED FROM GROSS INCOME UNDER
7 SECTION 63 (a) OF THE INTERNAL REVENUE CODE EXCEED SIXTY
8 THOUSAND DOLLARS.

9 (q) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
10 JANUARY 1, 2022, BUT BEFORE JANUARY 1, 2023, AN AMOUNT EQUAL TO
11 A FEDERAL DEDUCTION CLAIMED FOR THE INCOME TAX YEAR FOR A FOOD
12 AND BEVERAGE EXPENSE THAT EXCEEDS FIFTY PERCENT OF THE AMOUNT
13 OF THE EXPENSE AND THAT WAS ALLOWED UNDER SECTION 274 (n)(2)(D)
14 OF THE INTERNAL REVENUE CODE.

15 (II) THIS SUBSECTION (3)(q) IS REPEALED, EFFECTIVE DECEMBER
16 31, 2030.

17 (4) There shall be subtracted from federal taxable income:

18 (f) (III) (A) ~~For income tax years commencing on or after January~~
19 ~~1, 1989,~~ Amounts subtracted under this ~~paragraph (f) shall not exceed~~
20 SUBSECTION (4)(f) ARE CAPPED AT twenty thousand dollars per tax year;
21 ~~except that for income tax years commencing on or after January 1, 2000,~~
22 ~~amounts subtracted under subparagraph (I) of this paragraph (f) shall not~~
23 ~~exceed~~ SUBSECTION (4)(f)(I) OF THIS SECTION ARE CAPPED AT twenty-four
24 thousand dollars per tax year for any individual who is sixty-five years of
25 age or older at the close of the taxable year. FOR INCOME TAX YEARS
26 COMMENCING ON OR AFTER JANUARY 1, 2022, THE CAPS SET FORTH IN THIS
27 SUBSECTION (4)(f)(III)(A) ARE CALCULATED BY FIRST CONSIDERING THE

1 TOTAL SOCIAL SECURITY BENEFITS A TAXPAYER RECEIVED THAT WERE
2 INCLUDED IN FEDERAL TAXABLE INCOME AT THE CLOSE OF THE TAXABLE
3 YEAR AND ONLY IF THE TOTAL SOCIAL SECURITY BENEFITS RECEIVED THAT
4 YEAR WERE INCLUDED IN FEDERAL TAXABLE INCOME AT THE CLOSE OF THE
5 TAXABLE YEAR EXCEED THE CAPS SET FORTH IN THIS SUBSECTION
6 (4)(f)(III)(A), THEN THE CAPS ARE INCREASED TO AN AMOUNT EQUAL TO
7 THE SOCIAL SECURITY BENEFITS RECEIVED BY THE TAXPAYER THAT WERE
8 INCLUDED IN FEDERAL TAXABLE INCOME AT THE CLOSE OF THE TAXABLE
9 YEAR.

10 (B) For the purpose of determining the ~~exclusion~~ SUBTRACTION
11 allowed by this ~~paragraph (f)~~ SUBSECTION (4)(f), in the case of a joint
12 return, social security benefits included in federal taxable income shall be
13 apportioned in a ratio of the gross social security benefits of each
14 taxpayer to the total gross social security benefits of both taxpayers.

15 (C) ~~For the purposes of this paragraph (f)~~ AS USED IN THIS
16 SUBSECTION (4)(f), "pensions and annuities" means retirement benefits
17 that are periodic payments attributable to personal services performed by
18 an individual prior to his or her retirement from employment and that
19 arise from an employer-employee relationship, from service in the
20 uniformed services of the United States, or from contributions to a
21 retirement plan ~~which~~ THAT are deductible for federal income tax
22 purposes. "Pensions and annuities" includes distributions from individual
23 retirement arrangements and self-employed retirement accounts to the
24 extent that such distributions are not deemed to be premature distributions
25 for federal income tax purposes, amounts received from fully matured
26 privately purchased annuities, social security benefits, and amounts paid
27 from any such sources by reason of permanent disability or death of the

1 person entitled to receive the benefits.

2 (i) (II) (A) For income tax years commencing on or after January
3 1, 2001, BUT BEFORE JANUARY 1, 2022, an amount equal to all payments
4 or contributions made during the taxable year under an advance payment
5 contract, to a savings trust account, or otherwise in connection with a
6 qualified state tuition program established by collegeinvest created in
7 section 23-3.1-203, ~~C.R.S.~~, or to a qualified state tuition program that is
8 affiliated with an educational institution in the state and that is established
9 and maintained pursuant to section 529 of the internal revenue code or
10 any successor section.

11 (B) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
12 1, 2022, AN AMOUNT EQUAL TO ALL PAYMENTS OR CONTRIBUTIONS, NOT
13 TO EXCEED TEN THOUSAND DOLLARS PER TAXPAYER PER BENEFICIARY FOR
14 A TAXPAYER WHO FILES A SINGLE RETURN, OR FIFTEEN THOUSAND
15 DOLLARS PER TAXPAYER PER BENEFICIARY FOR TAXPAYERS WHO FILE A
16 JOINT RETURN, MADE DURING THE TAXABLE YEAR UNDER AN ADVANCE
17 PAYMENT CONTRACT, TO A SAVINGS TRUST ACCOUNT, OR OTHERWISE IN
18 CONNECTION WITH A QUALIFIED STATE TUITION PROGRAM ESTABLISHED
19 BY COLLEGEINVEST CREATED IN SECTION 23-3.1-203, OR TO A QUALIFIED
20 STATE TUITION PROGRAM THAT IS AFFILIATED WITH AN EDUCATIONAL
21 INSTITUTION IN THE STATE AND THAT IS ESTABLISHED AND MAINTAINED
22 PURSUANT TO SECTION 529 OF THE INTERNAL REVENUE CODE OR ANY
23 SUCCESSOR SECTION. NOTWITHSTANDING SUBSECTION (4)(i)(III)(D) OF
24 THIS SECTION, COLLEGEINVEST MAY TREAT A CHANGE IN BENEFICIARY AS
25 A NONQUALIFYING DISTRIBUTION IF THE CHANGE WAS MADE FOR THE
26 PURPOSE OF EVADING THE LIMIT IN THIS SUBSECTION (4)(i)(II)(B).

27 (III) No ~~exclusion shall be~~ SUBTRACTION IS allowed pursuant to

1 this ~~paragraph (i)~~ SUBSECTION (4)(i) to the extent that such payments or
2 contributions are excluded from the taxpayer's federal taxable income for
3 the taxable year. Any ~~exclusion~~ SUBTRACTION taken under this ~~paragraph~~
4 ~~(i) shall be subject to recapture~~ SUBSECTION (4)(i) IS ADDED TO THE
5 ACCOUNT HOLDER'S TAXABLE INCOME in the taxable year or years in
6 which any distribution, refund, or any other withdrawal is made pursuant
7 to an advance payment contract, from a savings trust account, or
8 otherwise in connection with a qualified state tuition program for any
9 reason other than:

10 (A) To pay qualified higher education expenses;
11 (B) As a result of the beneficiary's death or disability; ~~or~~

12 (C) As a result of receiving a scholarship and as long as the
13 aggregate amount of distributions, refunds, or withdrawals made pursuant
14 to this ~~sub-subparagraph (C)~~ SUBSECTION (4)(i)(III)(C) do not exceed the
15 amount of the scholarship provided during such tax year; OR

16 (D) AS A RESULT OF A CHANGE IN DESIGNATED BENEFICIARY, IF
17 THE CHANGE COMPLIES WITH SECTION 529 (c)(3)(C)(ii) OF THE INTERNAL
18 REVENUE CODE.

19 (V) BEGINNING JANUARY 1, 2023, AND ANNUALLY THEREAFTER,
20 COLLEGEINVEST SHALL PROVIDE THE DEPARTMENT WITH A SECURE
21 ELECTRONIC REPORT CONTAINING INFORMATION FOR THE 529 QUALIFIED
22 STATE TUITION PROGRAM'S ACCOUNT OWNERS AND THIRD-PARTY
23 CONTRIBUTORS NECESSARY FOR THE ADMINISTRATION OF THE DEDUCTION
24 ALLOWED IN THIS SECTION. THE REPORT MUST INCLUDE:

25 (A) THE NAME AND SOCIAL SECURITY NUMBER, AND THE
26 CONTRIBUTION AMOUNT, OF ALL COLORADO TAXPAYERS MAKING A
27 CONTRIBUTION TO A COLLEGEINVEST ACCOUNT IN THE REPORTING TAX

1 YEAR COMMENCING ON OR AFTER JANUARY 1, 2022;

2 (B) THE NAME AND SOCIAL SECURITY NUMBER, AND THE
3 CONTRIBUTION AMOUNT, OF ANY OTHER COLORADO TAXPAYER MAKING
4 A CONTRIBUTION TO A COLLEGEINVEST ACCOUNT IN THE REPORTING TAX
5 YEAR COMMENCING ON OR AFTER JANUARY 1, 2022, WHO INTENDS TO
6 PARTICIPATE IN THE DEDUCTION ALLOWED IN THIS SECTION; AND

7 (C) THE NAME AND SOCIAL SECURITY NUMBER, AND THE
8 UNQUALIFIED DISTRIBUTION AMOUNT, OF EACH ACCOUNT HOLDER OF A
9 COLLEGEINVEST ACCOUNT WHO IS ALSO A COLORADO TAXPAYER MAKING
10 AN UNQUALIFIED DISTRIBUTION IN THE REPORTING TAX YEAR
11 COMMENCING ON OR AFTER JANUARY 1, 2022, AND THE REASON FOR THE
12 UNQUALIFIED DISTRIBUTION.

13 **SECTION 3.** In Colorado Revised Statutes, 39-22-123.5, **amend**
14 (2)(b) and (2.5)(b); and **add** (2.7) as follows:

15 **39-22-123.5. Earned income tax credit - not a refund of excess**
16 **state revenues - trigger - legislative declaration.** (2) (b) For an income
17 tax year commencing on or after January 1, 2022, a resident individual
18 who claims an earned income tax credit on the individual's federal tax
19 return is allowed an earned income tax credit against the taxes due under
20 this article 22 that is equal to ~~fifteen~~ TWENTY percent of the federal credit
21 that the resident individual claimed on his or her federal tax return for the
22 same tax year.

23 (2.5) (b) For income tax years commencing on or after January 1,
24 2022, a resident individual is allowed an earned income tax credit against
25 the taxes due under this article 22 that is equal to ~~fifteen~~ TWENTY percent
26 of the federal credit that the ~~taxpayer~~ RESIDENT INDIVIDUAL would have
27 been allowed, but for the fact that the resident individual, the resident

1 individual's spouse, or one or more of the resident individual's dependents
2 do not have a social security number that is valid for employment.

3 (2.7) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
4 JANUARY 1, 2022, A RESIDENT INDIVIDUAL IS ALLOWED AN EARNED
5 INCOME TAX CREDIT AGAINST THE TAXES DUE UNDER THIS ARTICLE 22
6 THAT IS EQUAL TO TWENTY PERCENT OF THE FEDERAL CREDIT THAT THE
7 RESIDENT INDIVIDUAL WOULD HAVE BEEN ALLOWED UNDER SECTION 32
8 (n)(1) OF THE INTERNAL REVENUE CODE, NOTWITHSTANDING THE DATE
9 LIMITATION SET FORTH IN SECTION 32 (n) OF THE INTERNAL REVENUE CODE
10 AS SPECIFIED IN SECTION 9621 (a) OF THE "AMERICAN RESCUE PLAN ACT
11 OF 2021", PUB.L. 117-2.

12 **SECTION 4.** In Colorado Revised Statutes, 39-22-129, **amend**
13 (3)(a) and (4); and **add** (3.5) as follows:

14 **39-22-129. Child tax credit - legislative declaration -**
15 **definitions.** (3) (a) EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS
16 SECTION, for ~~an income tax year specified in subsection (4) of this section~~
17 YEARS COMMENCING ON OR AFTER JANUARY 1, 2022, a resident individual
18 who claims a federal child tax credit for an eligible child on the
19 individual's federal tax return is allowed a child tax credit IN THE AMOUNT
20 SET FORTH IN SUBSECTION (3)(b) OR (3)(c) OF THIS SECTION against the
21 income taxes due under this ~~article~~ ARTICLE 22 for the same tax year.

22 (3.5) (a) EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION,
23 FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2022, A
24 RESIDENT INDIVIDUAL WHO COULD HAVE CLAIMED A FEDERAL CHILD TAX
25 CREDIT FOR AN ELIGIBLE CHILD ON THE INDIVIDUAL'S FEDERAL TAX
26 RETURN HAD SECTION 24 (h)(7) OF THE INTERNAL REVENUE CODE NOT
27 APPLIED TO THE DEFINITION OF QUALIFYING CHILD, IS ALLOWED A CHILD

1 TAX CREDIT IN THE AMOUNT SET FORTH IN SUBSECTION (3.5)(b) OR (3.5)(c)
2 OF THIS SECTION AGAINST THE INCOME TAXES DUE UNDER THIS ARTICLE
3 22 FOR THE SAME TAX YEAR.

4 (b) (I) FOR A RESIDENT INDIVIDUAL WHO FILES A SINGLE RETURN,
5 THE AMOUNT OF THE CREDIT IS EQUAL TO:

6 (A) THIRTY PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT
7 THE RESIDENT INDIVIDUAL COULD HAVE CLAIMED ON THEIR FEDERAL TAX
8 RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUAL'S FEDERAL
9 ADJUSTED GROSS INCOME IS TWENTY-FIVE THOUSAND DOLLARS OR LESS;

10 (B) FIFTEEN PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT
11 THE RESIDENT INDIVIDUAL COULD HAVE CLAIMED ON THEIR FEDERAL TAX
12 RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUAL'S FEDERAL
13 ADJUSTED GROSS INCOME IS GREATER THAN TWENTY-FIVE THOUSAND
14 DOLLARS BUT LESS THAN OR EQUAL TO FIFTY THOUSAND DOLLARS; AND

15 (C) FIVE PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT THE
16 RESIDENT INDIVIDUAL COULD HAVE CLAIMED ON THEIR FEDERAL TAX
17 RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUAL'S FEDERAL
18 ADJUSTED GROSS INCOME IS GREATER THAN FIFTY THOUSAND DOLLARS
19 BUT LESS THAN OR EQUAL TO SEVENTY-FIVE THOUSAND DOLLARS.

20 (II) A RESIDENT INDIVIDUAL WHO FILES A SINGLE RETURN AND
21 WHOSE FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN
22 SEVENTY-FIVE THOUSAND DOLLARS IS NOT ALLOWED A CREDIT UNDER
23 THIS SECTION.

24 (c) (I) FOR TWO RESIDENT INDIVIDUALS WHO FILE A JOINT RETURN,
25 THE AMOUNT OF THE CREDIT IS EQUAL TO:

26 (A) THIRTY PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT
27 THE RESIDENT INDIVIDUALS COULD HAVE CLAIMED ON THEIR FEDERAL TAX

1 RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUALS' FEDERAL
2 ADJUSTED GROSS INCOME IS THIRTY-FIVE THOUSAND DOLLARS OR LESS;

3 (B) FIFTEEN PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT
4 THE RESIDENT INDIVIDUALS COULD HAVE CLAIMED ON THEIR FEDERAL TAX
5 RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUALS' FEDERAL
6 ADJUSTED GROSS INCOME IS GREATER THAN THIRTY-FIVE THOUSAND
7 DOLLARS BUT LESS THAN OR EQUAL TO SIXTY THOUSAND DOLLARS; AND

8 (C) FIVE PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT THE
9 RESIDENT INDIVIDUALS COULD HAVE CLAIMED ON THEIR FEDERAL TAX
10 RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUALS' FEDERAL
11 ADJUSTED GROSS INCOME IS GREATER THAN SIXTY THOUSAND DOLLARS
12 BUT LESS THAN OR EQUAL TO EIGHTY-FIVE THOUSAND DOLLARS.

13 (II) TWO RESIDENT INDIVIDUALS WHO FILE A JOINT RETURN AND
14 WHOSE FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN EIGHTY-FIVE
15 THOUSAND DOLLARS ARE NOT ALLOWED A CREDIT UNDER THIS SECTION.

16 (4) ~~No credit is allowed under this section until the United States~~
17 ~~congress has enacted the "Marketplace Fairness Act of 2013", or any~~
18 ~~other act with substantially similar requirements, and the general~~
19 ~~assembly has enacted a law to implement the minimum simplification~~
20 ~~requirements in the congressional act. The credit allowed under this~~
21 ~~section may be claimed for any income tax year beginning with the~~
22 ~~income tax year during which the last prerequisite bill under this~~
23 ~~subsection (4) becomes law; except that, if the last bill becomes law after~~
24 ~~October 1 of a given year, the credit is first available in the next income~~
25 ~~tax year, and in no case may the credit be claimed prior to the 2014~~
26 ~~income tax year.~~ IN ANY INCOME TAX YEAR COMMENCING ON OR AFTER
27 JANUARY 1, 2022, IF THE CHANGES SPECIFIED IN SECTION 9611 OF THE

1 "AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 117-2, ARE NO LONGER
2 APPLICABLE TO THE FEDERAL CHILD TAX CREDIT ALLOWED IN SECTION 24
3 OF THE INTERNAL REVENUE CODE, THEN THE AMOUNT OF THE CHILD TAX
4 CREDIT ALLOWED IN THIS SECTION IS AS FOLLOWS:

5 (a) (I) FOR A RESIDENT INDIVIDUAL WHO FILES A SINGLE RETURN,
6 THE AMOUNT OF THE CREDIT IS EQUAL TO:

7 (A) SIXTY PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT THE
8 RESIDENT INDIVIDUAL CLAIMED OR COULD HAVE CLAIMED ON THEIR
9 FEDERAL TAX RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUAL'S
10 FEDERAL ADJUSTED GROSS INCOME IS TWENTY-FIVE THOUSAND DOLLARS
11 OR LESS;

12 (B) THIRTY PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT
13 THE RESIDENT INDIVIDUAL CLAIMED OR COULD HAVE CLAIMED ON THEIR
14 FEDERAL TAX RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUAL'S
15 FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN TWENTY-FIVE
16 THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO FIFTY THOUSAND
17 DOLLARS; AND

18 (C) TEN PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT THE
19 RESIDENT INDIVIDUAL CLAIMED OR COULD HAVE CLAIMED ON THEIR
20 FEDERAL TAX RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUAL'S
21 FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN FIFTY THOUSAND
22 DOLLARS BUT LESS THAN OR EQUAL TO SEVENTY-FIVE THOUSAND
23 DOLLARS.

24 (II) A RESIDENT INDIVIDUAL WHO FILES A SINGLE RETURN AND
25 WHOSE FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN
26 SEVENTY-FIVE THOUSAND DOLLARS IS NOT ALLOWED A CREDIT UNDER
27 THIS SECTION.

1 (b) (I) FOR TWO RESIDENT INDIVIDUALS WHO FILE A JOINT RETURN,
2 THE AMOUNT OF THE CREDIT IS EQUAL TO:

3 (A) SIXTY PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT THE
4 RESIDENT INDIVIDUALS CLAIMED OR COULD HAVE CLAIMED ON THEIR
5 FEDERAL TAX RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUALS'
6 FEDERAL ADJUSTED GROSS INCOME IS THIRTY-FIVE THOUSAND DOLLARS
7 OR LESS;

8 (B) THIRTY PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT
9 THE RESIDENT INDIVIDUALS CLAIMED OR COULD HAVE CLAIMED ON THEIR
10 FEDERAL TAX RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUALS'
11 FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN THIRTY-FIVE
12 THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO SIXTY THOUSAND
13 DOLLARS; AND

14 (C) TEN PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT THE
15 RESIDENT INDIVIDUALS CLAIMED OR COULD HAVE CLAIMED ON THEIR
16 FEDERAL TAX RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUALS'
17 FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN SIXTY THOUSAND
18 DOLLARS BUT LESS THAN OR EQUAL TO EIGHTY-FIVE THOUSAND DOLLARS.

19 (II) TWO RESIDENT INDIVIDUALS WHO FILE A JOINT RETURN AND
20 WHOSE FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN EIGHTY-FIVE
21 THOUSAND DOLLARS ARE NOT ALLOWED A CREDIT UNDER THIS SECTION.

22 ■ ■

23 **SECTION 5.** In Colorado Revised Statutes, 39-22-303, **amend**
24 **(8), (11)(c)(II), and (12) as follows:**

25 **39-22-303. Dividends in a combined report - foreign source**
26 **income - affiliated groups - definitions.** (8) (a) EXCEPT AS PROVIDED IN
27 SUBSECTION (8)(b) OF THIS SECTION, neither the taxpayer nor the

1 executive director shall include in a combined report any C corporation
2 ~~which~~ THAT conducts business outside the United States if eighty percent
3 or more of the C corporation's property and payroll, as determined by
4 factoring pursuant to section 24-60-1301, is assigned to locations outside
5 the United States. For the purpose of this subsection (8), "United States"
6 is restricted to the fifty states and the District of Columbia.

7 (b) (I) FOR TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2022,
8 A TAXPAYER SHALL INCLUDE IN THE COMBINED GROUP ANY MEMBER OF AN
9 AFFILIATED GROUP OF C CORPORATIONS THAT IS INCORPORATED IN A
10 FOREIGN JURISDICTION FOR THE PURPOSE OF TAX AVOIDANCE.

11 (II) A C CORPORATION IS PRESUMPTIVELY INCORPORATED IN A
12 FOREIGN JURISDICTION FOR THE PURPOSE OF TAX AVOIDANCE IF IT IS
13 INCORPORATED IN A LISTED JURISDICTION. A C CORPORATION IS NOT
14 INCORPORATED IN A FOREIGN JURISDICTION FOR THE PURPOSE OF TAX
15 AVOIDANCE IF THE TAXPAYER PROVES TO THE SATISFACTION OF THE
16 EXECUTIVE DIRECTOR THAT SUCH CORPORATION IS INCORPORATED IN A
17 LISTED JURISDICTION FOR REASONS THAT MEET THE ECONOMIC SUBSTANCE
18 DOCTRINE DESCRIBED IN SECTION 7701 (o) OF THE INTERNAL REVENUE
19 CODE.

20 (III) FOR PURPOSES OF THIS SUBSECTION (8)(b), THE TERM "C
21 CORPORATION" INCLUDES ANY BUSINESS ENTITY DEFINED AS A
22 "CORPORATION" UNDER THE INTERNAL REVENUE CODE AND THE RULES
23 AND REGULATIONS PROMULGATED PURSUANT THERETO, REGARDLESS OF
24 WHETHER SUCH ENTITY IS SUBJECT TO FEDERAL INCOME TAX. ANY
25 BUSINESS ENTITY INCLUDED IN A COMBINED GROUP UNDER SUBSECTION
26 (8)(b)(I) OF THIS SECTION IS DEEMED TO BE A "C CORPORATION" FOR
27 PURPOSES OF THIS ARTICLE 22, NOTWITHSTANDING SECTION 39-22-103

1 (2.5).

2

3 (11) (c) If an affiliated C corporation is included in a combined
4 report, section 39-22-303.5, 39-22-303.6, or 39-22-303.7 shall be applied
5 with the following modifications:

6 (II) (A) FOR INCOME TAX YEARS COMMENCING BEFORE JANUARY
7 1, 2022, the numerator of the apportionment calculation set forth in
8 section 39-22-303.5 or 39-22-303.6 shall be, to the extent applicable, the
9 sum of the sales of those affiliated C corporations doing business in
10 Colorado.

11 (B) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
12 1, 2022, THE COMBINED GROUP APPORTIONMENT FACTOR IS A FRACTION
13 DETERMINED UNDER SECTION 39-22-303.6, AS MODIFIED, IF APPLICABLE,
14 BY SECTION 39-22-303.7, WHERE THE NUMERATOR OF THE FACTOR
15 INCLUDES AMOUNTS SOURCED TO THE STATE, REGARDLESS OF THE
16 SEPARATE ENTITY TO WHICH THOSE FACTORS MAY BE ATTRIBUTED, AND
17 THE DENOMINATOR OF THE FACTOR INCLUDES AMOUNTS ASSOCIATED WITH
18 THE COMBINED GROUP'S BUSINESS WHEREVER LOCATED.

19 (12) As used in subsections (10) and (11) of this section, the term
20 AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

21 (a) "Affiliated group" means:

22 (I) One or more chains of includable C corporations connected
23 through stock ownership with a common parent C corporation which
24 THAT is an includable C corporation if:

25 (H) (A) Stock possessing more than fifty percent of the voting
26 power of all classes of stock and more than fifty percent of each class of
27 the nonvoting stock of each of the includable C corporations, except the

1 common parent C corporation, is owned directly ■ by one or more of the
2 other includable C corporations; and

3 (H) (B) The common parent C corporation owns directly ■ stock
4 possessing more than fifty percent of the voting power of all classes of
5 stock and more than fifty percent of each class of the nonvoting stock of
6 at least one of the other includable C corporations.

7 (b) (II) As used in this ~~subsection (12)~~ SUBSECTION (12)(a), the
8 term "stock" does not include nonvoting stock ~~which~~ THAT is limited and
9 preferred as to dividends, employer securities, within the meaning of
10 section 409(1) of the internal revenue code, while such securities are held
11 under a tax credit employee stock ownership plan, or qualifying employer
12 securities, within the meaning of section 4975(e)(8) of the internal
13 revenue code, while such securities are held under an employee stock
14 ownership plan which meets the requirements of section 4975(e)(7) of the
15 internal revenue code.

16 ■
17 (b) "LISTED JURISDICTION" MEANS ANDORRA, ANGUILLA,
18 ANTIGUA AND BARBUDA, ARUBA, THE BAHAMAS, BAHRAIN, BARBADOS,
19 BELIZE, BERMUDA, BONAIRE, BRITISH VIRGIN ISLANDS, CAYMAN
20 ISLANDS, COOK ISLANDS, CURAÇAO, CYPRUS, DOMINICA, GIBRALTAR,
21 GRENADA, GUERNSEY-SARK-ALDERNEY, ISLE OF MAN, JERSEY, LIBERIA,
22 LIECHTENSTEIN, LUXEMBOURG, MALTA, MARSHALL ISLANDS,
23 MAURITIUS, MONACO, MONTSERRAT, NAURU, NIUE, PANAMA, SABA,
24 SAMOA, SAN MARINO, SEYCHELLES, SINT EUSTATIUS, SINT MAARTEN, ST.
25 KITTS AND NEVIS, ST. LUCIA, ST. VINCENT AND THE GRENADINES, TURKS
26 AND CAICOS ISLANDS, U.S. VIRGIN ISLANDS, AND VANUATU.

27 ■ ■

1 **SECTION 6.** In Colorado Revised Statutes, 39-22-304, **amend**
2 (1) and (3)(j); and **add** (2)(j) and (3)(p) as follows:

3 **39-22-304. Net income of corporation - legislative declaration**
4 **- definitions - repeal.** (1) (a) The net income of a C corporation means
5 the C corporation's federal taxable income, as defined in the internal
6 revenue code, for the taxable year, with the modifications specified in this
7 section.

8 (b) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
9 JANUARY 1, 2022, IN THE CASE OF A C CORPORATION THAT IS NOT
10 INCORPORATED IN THE UNITED STATES, OR INCLUDED IN A CONSOLIDATED
11 FEDERAL CORPORATE INCOME TAX RETURN, "FEDERAL TAXABLE INCOME"
12 MEANS THE C CORPORATION'S INCOME OR LOSS AS DETERMINED FROM A
13 PROFIT AND LOSS STATEMENT PREPARED FOR THAT C CORPORATION ON A
14 SEPARATE ENTITY BASIS IN THE CURRENCY IN WHICH ITS BOOKS OF
15 ACCOUNT ARE REGULARLY MAINTAINED, PROVIDED THIS PROFIT AND LOSS
16 STATEMENT IS SUBJECT TO AN INDEPENDENT AUDIT, ADJUSTED TO
17 CONFORM TO THE ACCOUNTING PRINCIPLES GENERALLY ACCEPTED IN THE
18 UNITED STATES FOR THE PREPARATION OF SUCH STATEMENTS AND
19 FURTHER MODIFIED TO TAKE INTO ACCOUNT ANY BOOK-TAX ADJUSTMENTS
20 NECESSARY TO REFLECT FEDERAL AND STATE TAX LAW. INCOME OR LOSS
21 SO COMPUTED INCLUDES ALL INCOME WHEREVER DERIVED AND IS NOT
22 LIMITED TO ITEMS OF INCOME FROM SOURCES WITHIN THE UNITED STATES
23 OR EFFECTIVELY CONNECTED INCOME WITHIN THE MEANING OF THE
24 INTERNAL REVENUE CODE. ITEMS OF INCOME, EXPENSE, GAIN OR LOSS,
25 AND RELATED APPORTIONMENT FACTORS THAT ARE DENOMINATED IN A
26 FOREIGN CURRENCY MUST ALSO BE TRANSLATED INTO UNITED STATES
27 DOLLARS ON A REASONABLE BASIS CONSISTENTLY APPLIED YEAR-TO-YEAR

1 AND ENTITY-BY-ENTITY. UNREALIZED FOREIGN CURRENCY GAINS AND
2 LOSSES ARE NOT RECOGNIZED. INCOME APPORTIONED TO THIS STATE IS TO
3 BE EXPRESSED IN UNITED STATES DOLLARS.

4 (II) IN LIEU OF THE PROCEDURES SET FORTH IN SUBSECTION
5 (1)(b)(I) OF THIS SECTION, OR IN ANY CASE WHERE IT IS NECESSARY TO
6 FAIRLY AND CONSISTENTLY REFLECT THE INCOME OR LOSS AND
7 APPORTIONMENT FACTORS OF FOREIGN OPERATIONS INCLUDED IN A
8 COMBINED REPORT, THE EXECUTIVE DIRECTOR MAY PROVIDE FOR OTHER
9 PROCEDURES TO REASONABLY APPROXIMATE THE INCOME OR LOSS AND
10 APPORTIONMENT FACTORS OF MEMBERS WITH FOREIGN OPERATIONS.

11 (2) There shall be added to federal taxable income:

12 (j) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
13 JANUARY 1, 2022, BUT BEFORE JANUARY 1, 2023, AN AMOUNT EQUAL TO
14 A FEDERAL DEDUCTION CLAIMED FOR THE INCOME TAX YEAR FOR A FOOD
15 AND BEVERAGE EXPENSE THAT EXCEEDS FIFTY PERCENT OF THE AMOUNT
16 OF THE EXPENSE AND THAT WAS ALLOWED UNDER SECTION 274 (n)(2)(D)
17 OF THE INTERNAL REVENUE CODE.

18 (II) THIS SUBSECTION (2)(j) IS REPEALED, EFFECTIVE DECEMBER
19 31, 2030.

20 (3) There shall be subtracted from federal taxable income:

21 (j) Any amount treated as a section 78 dividend under section 78
22 of the internal revenue code EXCLUDING ANY AMOUNT TREATED UNDER
23 SECTION 78 AS A DIVIDEND RECEIVED FROM A C CORPORATION
24 INCORPORATED IN A FOREIGN JURISDICTION FOR THE PURPOSE OF TAX
25 AVOIDANCE PURSUANT TO SECTION 39-22-303 (8)(b)(II);

26 (p) (I) ANY AMOUNT INCLUDED IN FEDERAL TAXABLE INCOME
27 PURSUANT TO SECTION 951 (a) OF THE INTERNAL REVENUE CODE WITH

1 RESPECT TO A CONTROLLED FOREIGN CORPORATION THAT IS A C
2 CORPORATION INCORPORATED IN A FOREIGN JURISDICTION FOR THE
3 PURPOSE OF TAX AVOIDANCE PURSUANT TO SECTION 39-22-303 (8)(b)(II);
4 AND

5 (II) THE AMOUNT OF ANY GLOBAL INTANGIBLE LOW-TAXED
6 INCOME INCLUDED IN FEDERAL TAXABLE INCOME PURSUANT TO SECTION
7 951A (a) OF THE INTERNAL REVENUE CODE WITH RESPECT TO A
8 CONTROLLED FOREIGN CORPORATION THAT IS A C CORPORATION
9 INCORPORATED IN A FOREIGN JURISDICTION FOR THE PURPOSE OF TAX
10 AVOIDANCE PURSUANT TO SECTION 39-22-303 (8)(b)(II), LESS ANY
11 AMOUNT DEDUCTED UNDER SECTION 250 (a)(1)(B) OF THE INTERNAL
12 REVENUE CODE WITH RESPECT TO SUCH GLOBAL INTANGIBLE LOW-TAXED
13 INCOME.

14 **SECTION 7.** In Colorado Revised Statutes, 39-22-518, **amend**
15 (1); and **add** (9) as follows:

16 **39-22-518. Tax modification for net capital gains - repeal.**
17 (1) For income tax years commencing on or after July 1, 1995, BUT
18 BEFORE JANUARY 1, 2022, a modification, in the form of a reduction of
19 income taxable by the state of Colorado, shall be allowed to any qualified
20 taxpayer for the amount of income attributable to qualifying gains
21 receiving capital treatment earned by the qualified taxpayer during the
22 taxable year and included in federal taxable income.

23 (9) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2030.

24 **SECTION 8.** In Colorado Revised Statutes, **add** 39-22-542 as
25 follows:

26 **39-22-542. Tax credit for conversion costs for employee**
27 **business ownership - definitions - declaration - repeal.** (1) Legislative

1 **declaration.** (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES
2 THAT:

3 (I) THE PURPOSE OF THIS SECTION IS TO PROVIDE AN INCENTIVE
4 FOR SMALL BUSINESSES TO ESTABLISH EMPLOYEE STOCK OWNERSHIP
5 PLANS OR EMPLOYEE OWNERSHIP TRUSTS, OR TO CONVERT TO A
6 WORKER-OWNED COOPERATIVE;

7 (II) AN EMPLOYEE STOCK OWNERSHIP PLAN ALLOWS COMPANIES
8 TO SHARE OWNERSHIP WITH EMPLOYEES WITHOUT REQUIRING EMPLOYEES
9 TO INVEST THEIR OWN MONEY;

10 (III) THIS SECTION ENCOURAGES SMALL BUSINESS OWNERS TO
11 SELL, THROUGH THREE DIFFERENT OPTIONS, THEIR BUSINESSES TO THE
12 VERY EMPLOYEES THAT CONTRIBUTED TO THEIR SUCCESS; AND

13 (IV) THIS SECTION WILL HELP TO ENSURE THAT LOCAL BUSINESSES
14 ARE NOT SOLD TO OUT-OF-STATE BUYERS, WHICH IS OFTEN DETRIMENTAL
15 TO THE FABRIC OF LOCAL COMMUNITIES.

16 (b) IT IS THE GENERAL ASSEMBLY'S INTENT THAT THE COLORADO
17 OFFICE OF ECONOMIC DEVELOPMENT PROVIDE RELEVANT AND
18 ASCERTAINABLE METRICS AND COLLECT ANY NECESSARY DATA TO ALLOW
19 THE STATE AUDITOR TO MEASURE THE EFFECTIVENESS OF THE TAX CREDIT
20 IN THIS SECTION IN ACHIEVING THE PURPOSE SET FORTH IN SUBSECTION
21 (1)(a) OF THIS SECTION.

22 (2) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT
23 OTHERWISE REQUIRES:

24 (a) "COLORADO OFFICE OF ECONOMIC DEVELOPMENT" OR "OFFICE"
25 MEANS THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT CREATED IN
26 SECTION 24-48.5-101.

27 (b) "CONVERSION COSTS" MEANS PROFESSIONAL SERVICES,

1 INCLUDING ACCOUNTING, LEGAL, AND BUSINESS ADVISORY SERVICES, AS
2 DETAILED IN THE GUIDELINES ISSUED BY THE OFFICE, FOR THE TRANSITION
3 OF A BUSINESS TO EMPLOYEE OWNERSHIP TRUST, AN EMPLOYEE STOCK
4 OWNERSHIP PLAN, OR A WORKER-OWNED COOPERATIVE.

5 (c) "DEPARTMENT" MEANS THE COLORADO DEPARTMENT OF
6 REVENUE.

7 (d) "EMPLOYEE OWNERSHIP TRUST" MEANS AN INDIRECT FORM OF
8 EMPLOYEE OWNERSHIP IN WHICH A TRUST HOLDS A CONTROLLING STAKE
9 IN A QUALIFIED BUSINESS AND BENEFITS ALL EMPLOYEES ON AN EQUAL
10 BASIS.

11 (e) "EMPLOYEE STOCK OWNERSHIP PLAN" HAS THE SAME MEANING
12 AS SET FORTH IN SECTION 4975 (e)(7) OF THE INTERNAL REVENUE CODE,
13 AS AMENDED.

14 (f) "QUALIFIED BUSINESS" MEANS A TAXPAYER SUBJECT TO TAX
15 UNDER THIS ARTICLE 22, INCLUDING BUT NOT LIMITED TO A C
16 CORPORATION, S CORPORATION, LIMITED LIABILITY COMPANY,
17 PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, A SOLE PROPRIETORSHIP,
18 OR OTHER SIMILAR PASS-THROUGH ENTITY, THAT IS APPROVED BY THE
19 OFFICE FOR THE TAX INCENTIVES IN THIS SECTION.

20 (g) "WORKER-OWNED COOPERATIVE" HAS THE SAME MEANING AS
21 SET FORTH IN SECTION 1042 (c)(2) OF THE INTERNAL REVENUE CODE, AS
22 AMENDED.

23 (3) (a) SUBJECT TO CERTIFICATION BY THE OFFICE PURSUANT TO
24 THIS SECTION, FOR INCOME TAX YEARS COMMENCING ON OR AFTER
25 JANUARY 1, 2022, BUT PRIOR TO JANUARY 1, 2027, THERE SHALL BE
26 ALLOWED A CREDIT WITH RESPECT TO THE INCOME TAXES IMPOSED
27 PURSUANT TO THIS ARTICLE 22 TO A QUALIFIED BUSINESS FOR:

1 (I) UP TO FIFTY PERCENT OF THE CONVERSION COSTS, NOT TO
2 EXCEED TWENTY-FIVE THOUSAND DOLLARS, INCURRED BY A QUALIFIED
3 BUSINESS FOR CONVERTING THE QUALIFIED BUSINESS TO A
4 WORKER-OWNED COOPERATIVE OR AN EMPLOYEE OWNERSHIP TRUST; OR

5 (II) UP TO FIFTY PERCENT OF THE CONVERSION COSTS, NOT TO
6 EXCEED ONE HUNDRED THOUSAND DOLLARS, INCURRED BY A QUALIFIED
7 BUSINESS FOR CONVERTING THE QUALIFIED BUSINESS TO AN EMPLOYEE
8 STOCK OWNERSHIP PLAN.

9 (b) THE MAXIMUM AMOUNT OF ALL TAX CREDIT CERTIFICATES
10 THAT THE OFFICE MAY ISSUE IN ANY TAX YEAR IS TEN MILLION DOLLARS.

11 (4) A BUSINESS SHALL SUBMIT AN APPLICATION TO THE OFFICE FOR
12 THE ISSUANCE OF A CREDIT CERTIFICATE FOR THE CREDIT ALLOWED IN THIS
13 SECTION BY THE DEADLINES ESTABLISHED IN THE OFFICE'S GUIDELINES.
14 THE APPLICATION MUST INCLUDE INFORMATION, AS SET FORTH IN THE
15 OFFICE'S GUIDELINES, REGARDING THE TYPE OF CONVERSION THE BUSINESS
16 INTENDS TO UNDERTAKE, A LIST OF THE EXPECTED CONVERSION COSTS,
17 AND AN ESTIMATED AMOUNT, AS CALCULATED BY THE BUSINESS, OF THE
18 EXPECTED CONVERSION COSTS.

19 (5) (a) THE OFFICE SHALL DEVELOP GUIDELINES FOR THE
20 ADMINISTRATION OF THIS SECTION, INCLUDING, BUT NOT LIMITED TO:

21 (I) APPLICATION REQUIREMENTS, INCLUDING A LIST OF THE DATA
22 THE OFFICE NEEDS TO MEET THE REQUIREMENTS IN SUBSECTIONS (11) AND
23 (12) OF THIS SECTION;

24 (II) GUIDELINES REGARDING THE ISSUING OF CREDIT
25 CERTIFICATES;

26 (III) DETAILED GUIDELINES REGARDING CONVERSION COSTS; AND

27 (IV) GUIDELINES AND STANDARDS FOR CERTIFYING A BUSINESS AS

1 A QUALIFIED BUSINESS.

2 (b) BEFORE THE OFFICE BEGINS TO PROVIDE RESERVATIONS OF TAX
3 CREDITS UNDER SUBSECTION (6) OF THIS SECTION, THE OFFICE SHALL
4 PROVIDE THE FINANCE COMMITTEES OF THE HOUSE OF REPRESENTATIVES
5 AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, WITH A WRITTEN
6 REPORT SETTING FORTH THE CLEAR, RELEVANT, AND ASCERTAINABLE
7 METRICS AND DATA REQUIREMENTS THAT THE OFFICE WILL TRACK UNDER
8 SUBSECTION (12) OF THIS SECTION IN ORDER TO ALLOW THE GENERAL
9 ASSEMBLY AND THE STATE AUDITOR TO MEASURE THE EFFECTIVENESS OF
10 THE TAX EXPENDITURE ALLOWED IN THIS SECTION IN ACHIEVING THE
11 PURPOSE SET FORTH IN SUBSECTION (1)(a) OF THIS SECTION.

12 (6) (a) AFTER THE OFFICE PROVIDES THE WRITTEN REPORT
13 REQUIRED IN SUBSECTION (5)(b) OF THIS SECTION, A RESERVATION OF TAX
14 CREDITS IS PERMITTED FOR THE TAX CREDIT ALLOWED IN THIS SECTION. IF
15 THE OFFICE DETERMINES THAT THE APPLICATION FILED UNDER SUBSECTION
16 (4) OF THIS SECTION IS COMPLETE, THE OFFICE SHALL DETERMINE
17 WHETHER THE BUSINESS IS A QUALIFIED BUSINESS, REVIEW THE LIST OF
18 THE EXPECTED CONVERSION COSTS, AND REVIEW THE ESTIMATED
19 CONVERSION COSTS AS CALCULATED BY THE BUSINESS. IF THE OFFICE
20 APPROVES THE BUSINESS AS A QUALIFIED BUSINESS, THE LIST OF EXPECTED
21 CONVERSION COSTS, AND THE ESTIMATED CONVERSION COSTS, THE OFFICE
22 MAY RESERVE FOR THE BENEFIT OF THE QUALIFIED BUSINESS AN
23 ALLOCATION OF A TAX CREDIT SUBJECT TO THE LIMITATION SPECIFIED IN
24 SUBSECTION (3)(b) OF THIS SECTION. THE OFFICE SHALL NOTIFY THE
25 QUALIFIED BUSINESS IN WRITING OF THE AMOUNT OF THE RESERVATION.
26 THE RESERVATION OF A TAX CREDIT DOES NOT ENTITLE THE QUALIFIED
27 BUSINESS TO AN ISSUANCE OF A TAX CREDIT CERTIFICATE UNTIL THE

1 QUALIFIED BUSINESS COMPLIES WITH ALL OF THE OTHER REQUIREMENTS
2 SPECIFIED IN THIS SECTION FOR THE ISSUANCE OF THE TAX CREDIT
3 CERTIFICATE.

4 (b) (I) THE OFFICE MUST RESERVE TAX CREDITS IN THE ORDER IN
5 WHICH IT RECEIVES COMPLETED APPLICATIONS THAT COMPLY WITH THE
6 REQUIREMENTS OF THIS SECTION AND THE GUIDELINES DEVELOPED BY THE
7 OFFICE. THE OFFICE SHALL ISSUE ANY SUCH RESERVATION OF TAX CREDITS
8 AUTHORIZED BY THIS SUBSECTION (6) OR DISAPPROVE THE APPLICATION
9 WITHIN A REASONABLE TIME, NOT TO EXCEED NINETY DAYS AFTER THE
10 FILING OF A COMPLETED APPLICATION.

11 (II) THE OFFICE SHALL STAMP EACH COMPLETED APPLICATION
12 WITH THE DATE AND TIME THE APPLICATION WAS RECEIVED AND SHALL
13 REVIEW THE APPLICATION ON THE BASIS OF THE ORDER IN WHICH IT WAS
14 SUBMITTED BY DATE AND TIME.

15 (III) ANY APPLICATION DISAPPROVED BY THE OFFICE WILL BE
16 REMOVED FROM THE REVIEW PROCESS, AND THE OFFICE SHALL NOTIFY THE
17 BUSINESS IN WRITING OF THE DECISION TO REMOVE ITS APPLICATION FROM
18 THE REVIEW PROCESS. DISAPPROVED APPLICATIONS LOSE THEIR PRIORITY
19 IN THE REVIEW PROCESS. A BUSINESS MAY RESUBMIT A DISAPPROVED
20 APPLICATION, BUT SUCH RESUBMITTED APPLICATION IS DEEMED TO BE A
21 NEW SUBMISSION FOR PURPOSES OF THE PRIORITY PROCEDURES DESCRIBED
22 IN THIS SUBSECTION (6)(b).

23 (c) IF, FOR ANY CALENDAR YEAR, THE TOTAL AMOUNT OF
24 RESERVATIONS FOR TAX CREDITS THE OFFICE HAS APPROVED IS EQUAL TO
25 THE TOTAL AMOUNT OF TAX CREDITS AVAILABLE FOR RESERVATION
26 DURING THAT CALENDAR YEAR, THE OFFICE SHALL NOTIFY ALL BUSINESSES
27 WHO HAVE SUBMITTED APPLICATIONS THEN A WAITING APPROVAL THAT NO

1 ADDITIONAL APPROVALS OF APPLICATIONS FOR RESERVATIONS OF TAX
2 CREDITS WILL BE GRANTED DURING THAT CALENDAR YEAR. THE OFFICE
3 SHALL ADDITIONALLY NOTIFY EACH BUSINESS OF THE PRIORITY NUMBER
4 GIVEN TO THE BUSINESS'S APPLICATION THEN AWAITING APPROVAL. THE
5 APPLICATIONS WILL REMAIN IN PRIORITY STATUS FOR TWO YEARS FROM
6 THE DATE OF THE ORIGINAL APPLICATION AND WILL BE CONSIDERED FOR
7 RESERVATIONS OF TAX CREDITS IN THE PRIORITY ORDER ESTABLISHED IN
8 THIS SUBSECTION (6) IN THE EVENT THAT ADDITIONAL CREDITS BECOME
9 AVAILABLE RESULTING FROM THE RESCISSION OF APPROVALS UNDER
10 SUBSECTION (7)(a) OF THIS SECTION OR BECAUSE A NEW ALLOCATION OF
11 TAX CREDITS FOR A CALENDAR YEAR BECOMES AVAILABLE.

12 (7) (a) ANY QUALIFIED BUSINESS RECEIVING A RESERVATION OF
13 TAX CREDITS UNDER SUBSECTION (6) OF THIS SECTION SHALL INCUR NOT
14 LESS THAN TWENTY PERCENT OF THE ESTIMATED CONVERSION COSTS NOT
15 LATER THAN EIGHTEEN MONTHS AFTER THE DATE OF ISSUANCE OF THE
16 WRITTEN NOTICE FROM THE OFFICE TO THE QUALIFIED BUSINESS GRANTING
17 THE RESERVATION OF TAX CREDITS. ANY QUALIFIED BUSINESS RECEIVING
18 A RESERVATION OF TAX CREDITS SHALL SUBMIT EVIDENCE OF COMPLIANCE
19 WITH THE PROVISIONS OF THIS SUBSECTION (7)(a). IF THE OFFICE
20 DETERMINES THAT A QUALIFIED BUSINESS HAS FAILED TO COMPLY WITH
21 THE REQUIREMENTS OF THIS SUBSECTION (7)(a), THE OFFICE MAY RESCIND
22 THE ISSUANCE IT PREVIOUSLY GAVE THE BUSINESS APPROVING THE
23 RESERVATION OF TAX CREDITS AND, IF SO, THE TOTAL AMOUNT OF TAX
24 CREDITS MADE AVAILABLE FOR THE CALENDAR YEAR FOR WHICH
25 RESERVATIONS MAY BE GRANTED MUST BE INCREASED BY THE AMOUNT OF
26 THE TAX CREDITS RESCINDED. THE OFFICE SHALL PROMPTLY NOTIFY ANY
27 QUALIFIED BUSINESS WHOSE RESERVATION OF TAX CREDITS HAS BEEN

1 RESCINDED AND, UPON RECEIPT OF THE NOTICE, THE QUALIFIED BUSINESS
2 MAY SUBMIT A NEW APPLICATION AND APPLICABLE PLAN.

3 (b) FOLLOWING THE COMPLETION OF THE CONVERSION, THE
4 QUALIFIED BUSINESS SHALL NOTIFY THE OFFICE THAT THE CONVERSION
5 HAS BEEN COMPLETED AND SHALL PROVIDE THE OFFICE WITH A COST
6 CERTIFICATION OF THE ESTIMATED CONVERSION COSTS. THE COST
7 CERTIFICATION MUST BE AUDITED BY A LICENSED CERTIFIED PUBLIC
8 ACCOUNTANT THAT IS NOT AFFILIATED WITH THE QUALIFIED BUSINESS.
9 THE OFFICE SHALL REVIEW THE COST CERTIFICATION, AND WITHIN NINETY
10 DAYS AFTER RECEIPT OF THE COST CERTIFICATION, THE OFFICE SHALL
11 CERTIFY THE CONVERSION COSTS AND ISSUE A TAX CREDIT CERTIFICATE IN
12 THE AMOUNTS ALLOWED IN SUBSECTION (3) OF THIS SECTION. THE OFFICE
13 SHALL PROMPTLY NOTIFY THE QUALIFIED BUSINESS OF ANY DISALLOWED
14 CONVERSION COSTS.

15 (c) NOTWITHSTANDING SUBSECTION (7)(b) OF THIS SECTION, THE
16 TOTAL AMOUNT OF THE TAX CREDIT CERTIFICATE ISSUED TO A QUALIFIED
17 BUSINESS SHALL NOT EXCEED THE AMOUNT OF THE TAX CREDIT
18 RESERVATION ISSUED UNDER SUBSECTION (6)(a) OF THIS SECTION.

19 (d) IF THE AMOUNT OF CERTIFIED COSTS INCURRED BY THE
20 QUALIFIED BUSINESS WOULD RESULT IN A QUALIFIED BUSINESS BEING
21 ISSUED AN AMOUNT OF TAX CREDITS THAT EXCEEDS THE AMOUNT OF TAX
22 CREDITS RESERVED FOR THE BUSINESS UNDER SUBSECTION (6)(a) OF THIS
23 SECTION, THE QUALIFIED BUSINESS MAY APPLY TO THE OFFICE FOR THE
24 ISSUANCE OF AN AMOUNT OF TAX CREDITS THAT EQUALS THE EXCESS. THE
25 QUALIFIED BUSINESS MUST SUBMIT ITS APPLICATION FOR ISSUANCE OF
26 SUCH EXCESS TAX CREDITS ON A FORM PRESCRIBED BY THE OFFICE. THE
27 OFFICE SHALL AUTOMATICALLY APPROVE THE APPLICATION, WHICH IT

1 SHALL ISSUE BY MEANS OF A SEPARATE CERTIFICATE, SUBJECT ONLY TO
2 THE AVAILABILITY OF TAX CREDITS AND THE PROVISIONS CONCERNING
3 PRIORITY PROVIDED IN SUBSECTION (6)(a) OF THIS SECTION.

4 (8) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE
5 INCOME TAXES DUE ON THE QUALIFIED BUSINESS'S INCOME, THE AMOUNT
6 OF THE CREDIT NOT USED TO OFFSET INCOME TAXES MUST BE REFUNDED
7 TO THE QUALIFIED BUSINESS.

8 (9) ANY TAX CREDITS ISSUED UNDER THIS SECTION TO A
9 PARTNERSHIP, A LIMITED LIABILITY COMPANY TAXED AS A PARTNERSHIP,
10 OR MULTIPLE OWNERS OF A PROPERTY MUST BE PASSED THROUGH TO THE
11 PARTNERS, MEMBERS, OR OWNERS, INCLUDING ANY NONPROFIT ENTITY
12 THAT IS A PARTNER, MEMBER, OR OWNER, RESPECTIVELY, ON A PRO RATA
13 BASIS ACCORDING TO THEIR OWNERSHIP PERCENTAGE.

14 (10) TO CLAIM THE INCOME TAX CREDIT ALLOWED IN THIS
15 SECTION, THE QUALIFIED BUSINESS SHALL ATTACH A COPY OF THE CREDIT
16 CERTIFICATE TO ITS STATE INCOME TAX RETURN. NO TAX CREDIT IS
17 ALLOWED UNDER THIS SECTION UNLESS THE QUALIFIED BUSINESS
18 PROVIDES THE COPY OF THE CREDIT CERTIFICATE WITH ITS FILED STATE
19 INCOME TAX RETURN. THE AMOUNT OF THE CREDIT THAT THE QUALIFIED
20 BUSINESS MAY CLAIM UNDER THIS SECTION IS THE AMOUNT STATED ON
21 THE TAX CREDIT CERTIFICATE.

22 (11) THE OFFICE SHALL, IN A SUFFICIENTLY TIMELY MANNER TO
23 ALLOW THE DEPARTMENT TO PROCESS RETURNS CLAIMING THE INCOME
24 TAX CREDIT ALLOWED IN THIS SECTION, PROVIDE THE DEPARTMENT WITH
25 AN ELECTRONIC REPORT OF EACH QUALIFIED BUSINESS THAT THE OFFICE
26 APPROVED FOR THE INCOME TAX CREDIT ALLOWED IN THIS SECTION FOR
27 THE PRECEDING CALENDAR YEAR THAT INCLUDES THE FOLLOWING

1 INFORMATION:

2 (a) THE TAXPAYER'S NAME; AND

3 (b) THE TAXPAYER'S SOCIAL SECURITY NUMBER OR THE
4 TAXPAYER'S COLORADO ACCOUNT NUMBER AND FEDERAL EMPLOYER
5 IDENTIFICATION NUMBER.

6 (12) THE OFFICE SHALL MAINTAIN A DATABASE OF ANY
7 INFORMATION NECESSARY TO EVALUATE THE EFFECTIVENESS OF THE TAX
8 CREDIT ALLOWED IN THIS SECTION IN MEETING THE PURPOSES SET FORTH
9 IN SUBSECTION (1)(a) OF THIS SECTION, AND SHALL PROVIDE SUCH
10 INFORMATION, AND ANY OTHER INFORMATION THAT MAY BE NEEDED, TO
11 THE STATE AUDITOR AS PART OF THE STATE AUDITOR'S EVALUATION OF
12 TAX EXPENDITURES UNDER SECTION 39-21-305.

13 (13) THE OFFICE SHALL CONDUCT STATEWIDE OUTREACH EFFORTS,
14 WITHIN EXISTING RESOURCES, TO MINORITY OWNED BUSINESSES, AS
15 DEFINED IN SECTION 24-48.5-127(2)(g), ABOUT THE AVAILABILITY OF THE
16 TAX CREDIT ALLOWED IN THIS SECTION.

17 (14) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2033.

18 **SECTION 9.** In Colorado Revised Statutes, 39-22-112, **amend**
19 (1) as follows:

20 **39-22-112. Persons and organizations exempt from tax under**
21 **this article.** (1) A person or organization exempt from federal income
22 taxation under the provisions of the internal revenue code shall also be
23 exempt from the tax imposed by this ~~article~~ ARTICLE 22 in each year in
24 which such person or organization satisfies the requirements of the
25 internal revenue code for exemption from federal income taxation; except
26 that insurance companies subject to the tax imposed on gross premiums
27 by section 10-3-209 ~~C.R.S.~~, shall also be exempt from the tax imposed by

1 this ~~article~~ ARTICLE 22. DISQUALIFIED INSURANCE COMPANIES, AS
2 DEFINED IN SECTION 10-1-102 (6.5), SHALL NOT BE EXEMPT FROM THE TAX
3 IMPOSED BY THIS ARTICLE 22. If the exemption applicable to any person
4 or organization under the provisions of the internal revenue code is
5 limited or qualified in any manner, the exemption from taxes imposed by
6 this ~~article~~ ARTICLE 22 shall be limited or qualified in a similar manner.

7 **SECTION 10.** In Colorado Revised Statutes, 10-1-102, **amend**
8 the introductory portion; and **add** (6.5) as follows:

9 **10-1-102. Definitions.** As used in this ~~title~~ TITLE 10, unless the
10 context otherwise requires:

11 (6.5) "DISQUALIFIED INSURANCE COMPANY" MEANS A COMPANY
12 LICENSED AS A CAPTIVE INSURANCE COMPANY UNDER THE LAWS OF THIS
13 STATE OR THE LAWS OF ANOTHER JURISDICTION WITH GROSS RECEIPTS FOR
14 THE TAXABLE YEAR THAT CONSIST FIFTY PERCENT OR LESS OF PREMIUMS
15 FROM ARRANGEMENTS THAT CONSTITUTE INSURANCE FOR FEDERAL
16 INCOME TAX PURPOSES.

17 **SECTION 11.** In Colorado Revised Statutes, 10-3-209, **amend**
18 (1)(a) as follows:

19 **10-3-209. Tax on premiums collected - exemptions - penalties.**

20 (1) (a) All insurance companies writing business in this state, including,
21 without limitation, those defined in section 10-1-102 (6), EXCEPT A
22 DISQUALIFIED INSURANCE COMPANY, shall pay to the division of insurance
23 a tax on the gross amount of all premiums collected or contracted for on
24 policies or contracts of insurance covering property or risks in this state
25 during the previous calendar year, after deducting from such gross
26 amount the amount received as reinsurance premiums on business in this
27 state, and the amount refunded under credit life and credit accident and

1 health insurance policies on account of termination of insurance prior to
2 the maturity date of the indebtedness, and, in the case of companies other
3 than life, the amounts paid to policyholders as return premiums, which
4 shall include dividends or unabsorbed premiums or premium deposits
5 returned or credited to policyholders.

6 **SECTION 12.** In Colorado Revised Statutes, 10-6-128, **amend**
7 (1) as follows:

8 **10-6-128. Tax on premiums collected - exemptions - penalties.**

9 (1) All captive insurance companies doing business in this state, EXCEPT
10 A DISQUALIFIED INSURANCE COMPANY, shall pay to the division of
11 insurance an annual tax on the gross amount of all premiums collected,
12 less premiums or premium credits returned to policyholders, on policies
13 or contracts of insurance covering property or risks in this state and on
14 risks and property situated in any other state in which the insurer has not
15 paid premium tax.

16 **SECTION 13. Appropriation.** For the 2021-22 state fiscal year,
17 \$68,041 is appropriated to the office of the governor for use by economic
18 development programs. This appropriation is from the general fund and
19 is based on an assumption that the office will require an additional 0.5
20 FTE. To implement this act, the office may use this appropriation for
21 employee ownership tax credit administration.

22 **SECTION 14. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, or safety.