

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

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 21-0502.01 Ed DeCecco x4216

HOUSE BILL 21-1312

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Finance
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Senate Committees

Finance
Appropriations

SENATE
Amended 3rd Reading
June 3, 2021

A BILL FOR AN ACT

101 **CONCERNING TAXATION, AND, IN CONNECTION THEREWITH,**
102 **NARROWING THE SCOPE OF THE HOME OFFICE INSURANCE**
103 **PREMIUM TAX RATE REDUCTION AND THE ANNUITIES**
104 **CONSIDERATION EXEMPTION FOR THE INSURANCE PREMIUM**
105 **TAX; FOR PURPOSES OF THE PROPERTY TAX, REQUIRING THE**
106 **ACTUAL VALUE OF REAL PROPERTY TO REFLECT THE VALUE OF**
107 **THE FEE SIMPLE ESTATE AND REQUIRING PERSONAL PROPERTY**
108 **TO BE BASED ON THE PROPERTY'S VALUE IN USE; INCREASING**
109 **THE PER-SCHEDULE EXEMPTION FOR BUSINESS PERSONAL**
110 **PROPERTY TAX AND REIMBURSING LOCAL GOVERNMENTS FOR**
111 **THE LOST TAX REVENUE; FOR PURPOSES OF THE SALES AND USE**
112 **TAX, CODIFYING THAT THE DEFINITION OF TANGIBLE PERSONAL**
113 **PROPERTY INCLUDES DIGITAL GOODS AND SPECIFYING THAT THE**

SENATE
Amended 2nd Reading
June 2, 2021

HOUSE
3rd Reading Unamended
May 22, 2021

HOUSE
Amended 2nd Reading
May 21, 2021

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 TAX ON SALES AND PURCHASES OF TANGIBLE PERSONAL
102 PROPERTY INCLUDES AMOUNTS CHARGED FOR MAINFRAME
103 COMPUTER ACCESS, PHOTOCOPYING, AND PACKING AND
104 CRATING; DISALLOWING THE SALES TAX VENDOR FEE FOR
105 RETAILERS WITH A SUBSTANTIAL AMOUNT OF TAXABLE SALES
106 DURING THE FILING PERIOD; FOR THE SEVERANCE TAX ON OIL
107 AND GAS, REQUIRING THE NET-BACK DEDUCTIONS USED TO
108 DETERMINE GROSS INCOME BE DIRECT COSTS ACTUALLY PAID BY
109 THE TAXPAYER; PHASING-OUT TAX CREDITS AND EXEMPTIONS
110 FOR THE SEVERANCE TAX ON COAL; AND MAKING AN
111 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>.)

The bill makes changes to several state and local government taxes.

Insurance premium tax. Currently, the insurance premium tax is equal to 2% of premiums collected or contracted for covering property or risks in this state; except that a company that is deemed to maintain a home office or regional home office in this state pays tax of 1%. **Section 2** of the bill requires a company to have at least 2.5% of its total domestic workforce in the state in order for the company to be deemed to maintain a home office or regional home office. This section also narrows the tax exemption for annuities considerations to those that are purchased in connection with a qualified retirement plan, a Roth 401(k), or an individual retirement account. For the purpose of auditing a company's tax statement, section 2 also authorizes the commissioner of insurance to appoint an independent examiner to conduct an examination on behalf of the commissioner.

Property tax. For purposes of imposing the property tax, **section 4** requires the actual value of real property to reflect the value of the fee simple estate. **Section 5** requires that the actual value of personal property be determined based on the property's value in use, which will be defined by the property tax administrator.

There is an exemption from property tax for business personal

property that would otherwise be listed on a single personal property if the property is less than a certain amount, which increases with inflation each property tax cycle. For the next property tax cycle, **section 6** increases the exemption from \$7,900 to \$50,000. Similar to the reimbursement for the homestead exemption, the state is required to reimburse local governments for lost property tax revenue caused by the increase. The first reimbursement will be based on actual property tax schedules filed, and future reimbursements will be adjusted estimates based on the initial amount.

Sales and use tax. The state sales and use tax is imposed on the sale and use of tangible personal property. **Section 7** codifies the department of revenue rule that the definition of "tangible personal property" includes "digital goods". **Section 8** specifies that the state sales tax applies to amounts charged for mainframe computer access, photocopying, and packing and crating.

A retailer who collects state sales tax is currently allowed to retain 4% of the state sales taxes collected, with a monthly cap of \$1,000, as compensation for the retailer's expenses incurred in collecting and remitting the tax (vendor fee). Beginning January 1, 2022, **section 9** eliminates the vendor fee for any filing period that the retailer's total taxable sales were greater than \$1 million.

Severance taxes. The severance tax on oil and gas is currently imposed on gross income, which is equal to the net amount realized for the sale of the oil and gas. The net amount realized is equal to the gross lease revenues, less deductions for any transportation, manufacturing, or processing costs by the taxpayer borne by the taxpayer (netback deductions). **Section 10** limits the netback deductions to direct costs actually paid by the taxpayer for those purposes, which disallows costs of capital and other indirect expenses.

Currently, the first 300,000 tons of coal produced in each quarter is exempt from the property tax. There is also a tax credit equal to 50% for coal produced from underground mines and another credit in the same amount for lignitic coal. Beginning with the 2022 taxable year, **section 11** phases out the quarterly exemption and both tax credits. The additional severance tax that results from these changes is credited to the just transition cash fund under **section 12**.

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

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

4 (a) (I) The insurance premium tax rate for a home office or

1 regional home office was designed to create an incentive for insurance
2 companies to maintain a substantial workforce presence in the state, but
3 it has become clear that this incentive has failed to achieve the intended
4 result;

5 (II) The annuities considerations exemption to the insurance
6 premium tax was created to promote retirement annuities as a form of
7 retirement income security for workers, but over the years it has been
8 expanded due to the use of annuities as tax shelters;

9 (III) The home office or regional home office tax rate and the
10 annuities considerations exemption are being modified to achieve the
11 original purpose of those measures;

12 (IV) Any revenue increase from these changes is incidental to this
13 purpose and is de minimis;

14 (b) The changes to the property tax will codify the current
15 valuation methods for real and personal property in the state;

16 (c) With respect to certain changes to the sales and use tax in this
17 act:

18 (I) The changes are intended to reflect the general assembly's
19 intent of how the existing statute should be interpreted;

20 (II) The definition of "digital goods" codifies the department of
21 revenue's long-standing treatment of digital goods, as reflected in its rule,
22 and neither expands nor contracts the definition of "tangible personal
23 property";

24 (III) It is the general assembly's intent to tax sales of tangible
25 personal property no matter the delivery method;

26 (IV) The delivery methods specified in this act are not meant to
27 be exhaustive and sales of digital goods that are delivered via new

1 technologies should also be taxed; and

2 (V) It is the general assembly's intent to clarify that amounts
3 charged for mainframe computer access, photocopying, and packing and
4 crating are sales and purchases of tangible personal property subject to
5 the state sales tax;

6 (d) (I) In *BP Am. Prod. Co. v. Colo. Dep't of Revenue*, 2016 CO
7 23, the Colorado supreme court held that the "cost of capital" associated
8 with natural gas transportation and processing facilities was a deductible
9 cost under section 39-29-102 (3)(a), Colorado Revised Statutes, which
10 expanded the deduction well beyond the general assembly's original
11 intent; and

12 (II) By limiting the allowable deduction to only those costs that
13 are direct and actually paid by the taxpayer, the general assembly is
14 restoring the deduction to its original scope and intent, while also
15 simplifying and streamlining the collection and administration of the
16 severance tax.

17 **SECTION 2.** In Colorado Revised Statutes, 10-3-209, **amend**
18 (1)(b)(II) introductory portion, (1)(d)(IV), and (5); and **add** (1)(b)(II.5)
19 and (1)(b)(II.7) as follows:

20 **10-3-209. Tax on premiums collected - exemptions - penalties.**

21 (1) (b) (II) For purposes of this ~~paragraph (b)~~ SUBSECTION (1)(b), EXCEPT
22 AS OTHERWISE PROVIDED IN SUBSECTION (1)(b)(II.5), any company is
23 deemed to maintain a home office or regional home office in this state if
24 such company either:

25 (II.5) TO BE DEEMED TO MAINTAIN A HOME OFFICE OR REGIONAL
26 HOME OFFICE IN THIS STATE, A COMPANY MUST MEET ONE OF THE CRITERIA
27 SET FORTH IN SUBSECTION (1)(b)(II) OF THIS SECTION AND ALSO HAVE A

1 WORKFORCE IN THE STATE THAT IS GREATER THAN OR EQUAL TO:

2 (A) TWO PERCENT OF THE COMPANY'S TOTAL DOMESTIC
3 WORKFORCE, FOR TAXES THAT ARE DUE AND PAYABLE FOR CALENDAR
4 YEAR 2022;

5 (B) TWO AND ONE-QUARTER PERCENT OF THE COMPANY'S TOTAL
6 DOMESTIC WORKFORCE, FOR TAXES THAT ARE DUE AND PAYABLE FOR
7 CALENDAR YEAR 2023; AND

8 (C) TWO AND ONE-HALF PERCENT OF THE COMPANY'S TOTAL
9 DOMESTIC WORKFORCE, FOR TAXES THAT ARE DUE AND PAYABLE FOR
10 CALENDAR YEAR 2024 AND EACH CALENDAR YEAR THEREAFTER.

11 (II.7) FOR PURPOSES OF THE CALCULATION REQUIRED IN
12 SUBSECTION (1)(b)(II.5) OF THIS SECTION, A WORKFORCE INCLUDES ALL
13 EMPLOYEES OF THE COMPANY; THE COMPANY'S ULTIMATE PARENT ENTITY;
14 SUBSIDIARIES; AND AFFILIATES, AS DEFINED IN SECTION 10-3-801 (1), BUT
15 EXCLUDES AGENTS, BROKERS, AND THEIR STAFF.

16 (d) (IV) Except to the extent provided in subsection (2) of this
17 section, the tax imposed by this section shall not apply to premiums
18 collected or contracted for after December 31, 1968, on policies or
19 contracts issued in connection with a pension, profit sharing, or annuity
20 plan established by an employer for employees if contributions by such
21 employer thereunder are deductible by such employer in determining such
22 employer's net income as defined in section 39-22-304, ~~C.R.S.~~, and shall
23 not apply to premiums collected or contracted for after December 31,
24 1968, on policies or contracts purchased for an employee by an employer
25 if such employer is exempt under section 39-22-112 ~~C.R.S.~~, from the tax
26 imposed by article 22 of title 39, ~~C.R.S.~~, or is a state, a political
27 subdivision of a state, or an agency or instrumentality of a state or

1 political subdivision of a state. ~~Except to the extent provided in~~
2 ~~subsection (2) of this section,~~ The tax imposed by this section shall not
3 apply to annuity considerations collected or contracted for after December
4 31, 1976, EXCEPT TO THE EXTENT PROVIDED IN SUBSECTION (2) OF THIS
5 SECTION AND EXCEPT FOR, TAXES THAT ARE DUE AND PAYABLE FOR THE
6 CALENDAR YEAR 2021 AND EACH CALENDAR YEAR THEREAFTER, THIS
7 EXEMPTION ONLY APPLIES TO ANNUITY CONSIDERATIONS THAT ARE USED
8 AS QUALIFIED FUNDING ASSETS UNDER SECTION 130 OF THE INTERNAL
9 REVENUE CODE OR ANNUITY CONSIDERATIONS THAT ARE PURCHASED IN
10 CONNECTION WITH:

11 (A) A PLAN UNDER SECTION 401(a) OF THE FEDERAL "INTERNAL
12 REVENUE CODE OF 1986", AS AMENDED;

13 (B) A ROTH 401(k) UNDER SECTION 402A OF THE FEDERAL
14 "INTERNAL REVENUE CODE OF 1986", AS AMENDED;

15 (C) A TAX-SHELTERED ANNUITY PLAN UNDER SECTION 403(b) OF
16 THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED;

17 (D) AN INDIVIDUAL RETIREMENT ACCOUNT UNDER SECTION 408(a)
18 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED;

19 (E) AN INDIVIDUAL RETIREMENT ANNUITY UNDER SECTION 408(b)
20 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED;

21 (F) A SIMPLIFIED EMPLOYEE PENSION UNDER SECTION 408(k) OF
22 THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED;

23 (G) A SIMPLE RETIREMENT ACCOUNT UNDER SECTION 408(p) OF
24 THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED;

25 (H) A DEFERRED COMPENSATION PLAN UNDER SECTION 457 OF THE
26 FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED;

27 (I) A ROTH 457 UNDER SECTION 457 OF THE FEDERAL "INTERNAL

1 REVENUE CODE OF 1986", AS AMENDED; AND

2 (J) A QUALIFIED RETIREMENT PLAN NOT SPECIFIED IN THIS
3 SUBSECTION (1)(d)(IV) OR A ROTH VERSION OF ANY QUALIFIED
4 RETIREMENT PLAN.

5 (5) For the purpose of auditing a company's tax statement, the
6 commissioner or the commissioner's designee, WHICH MAY INCLUDE AN
7 INDEPENDENT EXAMINER UNDER SECTION 10-1-204 (6), has the power to
8 examine any books, papers, records, agreements, or memoranda bearing
9 upon the matters required to be included in the tax statement. Such books,
10 papers, records, agreements, or memoranda shall be made available upon
11 request to the commissioner's office OR THE COMMISSIONER'S DESIGNEE.

12 **SECTION 3.** In Colorado Revised Statutes, 39-1-102, **add** (3.7)
13 as follows:

14 **39-1-102. Definitions.** As used in articles 1 to 13 of this title 39,
15 unless the context otherwise requires:

16 (3.7) "FEE SIMPLE ESTATE" MEANS THE LARGEST POSSIBLE ESTATE
17 ALLOWED BY LAW, AN ESTATE THAT HAS POTENTIALLY INFINITE
18 DURATION.

19 **SECTION 4.** In Colorado Revised Statutes, 39-1-103, **amend**
20 (5)(a) as follows:

21 **39-1-103. Actual value determined - when.** (5) (a) All real and
22 personal property shall be appraised and the actual value thereof for
23 property tax purposes determined by the assessor of the county wherein
24 such property is located. The actual value of such property, other than
25 agricultural lands exclusive of building improvements thereon and other
26 than residential real property and other than producing mines and lands
27 or leaseholds producing oil or gas, shall be that value determined by

1 appropriate consideration of the cost approach, the market approach, and
2 the income approach to appraisal. The assessor shall consider and
3 document all elements of such approaches that are applicable prior to a
4 determination of actual value. THE ACTUAL VALUE REFLECTS THE VALUE
5 OF THE FEE SIMPLE ESTATE. Despite any orders of the state board of
6 equalization, no assessor shall arbitrarily increase the valuations for
7 assessment of all parcels represented within the abstract of a county or
8 within a class or subclass of parcels on that abstract by a common
9 multiple in response to the order of said board. If an assessor is required,
10 pursuant to the order of said board, to increase or decrease valuations for
11 assessment, such changes shall be made only upon individual valuations
12 for assessment of each and every parcel, using each of the approaches to
13 appraisal specified in this ~~paragraph (a)~~ SUBSECTION (5)(a), if applicable.
14 The actual value of agricultural lands, exclusive of building
15 improvements thereon, shall be determined by consideration of the
16 earning or productive capacity of such lands during a reasonable period
17 of time, capitalized at a rate of thirteen percent. Land that is valued as
18 agricultural and that becomes subject to a perpetual conservation
19 easement shall continue to be valued as agricultural notwithstanding its
20 dedication for conservation purposes; except that, if any portion of such
21 land is actually used for nonagricultural commercial or nonagricultural
22 residential purposes, that portion shall be valued according to such use.
23 Nothing in this subsection (5) shall be construed to require or permit the
24 reclassification of agricultural land or improvements, including residential
25 property, due solely to subjecting the land to a perpetual conservation
26 easement. The actual value of residential real- property shall be
27 determined solely by consideration of the market approach to appraisal.

1 A gross rent multiplier may be considered as a unit of comparison within
2 the market approach to appraisal. The valuation for assessment of
3 producing mines and of lands or leaseholds producing oil or gas shall be
4 determined pursuant to articles 6 and 7 of this ~~title~~ TITLE 39.

5 **SECTION 5.** In Colorado Revised Statutes, 39-1-104, **amend**
6 (12.3)(a)(I) as follows:

7 **39-1-104. Valuation for assessment - definitions.**

8 (12.3) (a) (I) The actual value of personal property ~~shall be~~ IS determined
9 by appropriate consideration of such of the three approaches specified in
10 section 39-1-103 (5)(a) as are applicable to the appraisal of such property
11 AND IS BASED ON THE PROPERTY'S VALUE IN USE. Subject to review and
12 approval pursuant to section 39-2-109 (1)(e), the administrator shall
13 prepare and publish appraisal procedures and instructions for the annual
14 appraisal of such property that ~~will~~ include A DEFINITION OF "VALUE IN
15 USE" AND a factor or factors to adjust the actual value for the current year
16 of assessment to the level of value applicable to real property.

17 **SECTION 6.** In Colorado Revised Statutes, 39-3-119.5, **amend**
18 (2)(a)(III) and (2)(b)(I); and **add** (2)(a)(V), (2)(a)(VI), (2)(a)(VII),
19 (2)(a)(VIII), and (3) as follows:

20 **39-3-119.5. Personal property - exemption - reimbursement to**
21 **local governments - legislative declaration - definitions.** (2) (a) The
22 exemption created in subsection (1) of this section shall be up to and
23 including the following amounts:

24 (III) Five thousand five hundred dollars for property tax years
25 commencing on January 1, 2011, and January 1, 2012; ~~and~~

26 (V) SEVEN THOUSAND THREE HUNDRED DOLLARS FOR PROPERTY
27 TAX YEARS COMMENCING ON JANUARY 1, 2015, AND JANUARY 1, 2016;

1 (VI) SEVEN THOUSAND FOUR HUNDRED DOLLARS FOR PROPERTY
2 TAX YEARS COMMENCING ON JANUARY 1, 2017, AND JANUARY 1, 2018;

3 (VII) SEVENTH THOUSAND SEVEN HUNDRED DOLLARS FOR PROPERTY
4 TAX YEARS COMMENCING ON JANUARY 1, 2019, AND JANUARY 1, 2020;
5 AND

6 (VIII) FIFTY THOUSAND DOLLARS FOR PROPERTY TAX YEARS
7 COMMENCING ON JANUARY 1, 2021, AND JANUARY 1, 2022.

8 (b) (I) (A) Beginning with the property tax year commencing on
9 ~~January 1, 2015~~ JANUARY 1, 2023, the amount of the exemption created
10 in subsection (1) of this section shall be adjusted biennially to account for
11 inflation since the amount of the exemption last changed pursuant to this
12 subsection (2). On or before ~~November 1, 2014~~ NOVEMBER 1, 2022, and
13 each even-numbered year thereafter, the administrator shall calculate the
14 amount of the exemption for the next two-year cycle using inflation for
15 the prior two calendar years as of the date of the calculation. The adjusted
16 exemption shall be rounded upward to the nearest one hundred dollar
17 increment. The administrator shall certify the amount of the exemption
18 for the next two-year cycle and publish the amount on the website
19 maintained by the division of property taxation in the department of local
20 affairs.

21 (B) WHEN CALCULATING THE EXEMPTION AMOUNT UNDER
22 SUBSECTION (2)(b)(I)(A) OF THIS SECTION, THE ADMINISTRATOR SHALL DO
23 ANOTHER CALCULATION IN THE SAME MANNER BUT STARTING FROM SEVEN
24 THOUSAND NINE HUNDRED DOLLARS INSTEAD OF FIFTY THOUSAND
25 DOLLARS. THIS AMOUNT IS THE ALTERNATIVE EXEMPTION AMOUNT.

26 (C) IF, UNDER SUBSECTION (3)(f) OF THIS SECTION, THE STATE
27 TREASURER NOTIFIES THE ADMINISTRATOR THAT NOT ALL COUNTIES HAVE

1 RECEIVED REIMBURSEMENT WARRANTS FOR LOST PROPERTY TAX REVENUE
2 FOR THE AMOUNTS SPECIFIED IN SUBSECTION (3)(d) OF THIS SECTION, THEN
3 BEGINNING WITH THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1
4 THAT FOLLOWS THE NOTIFICATION, AND FOR ALL PROPERTY TAX YEARS
5 THEREAFTER, THE AMOUNT OF THE EXEMPTION IN SUBSECTION (1) OF THIS
6 SECTION IS THE ALTERNATIVE EXEMPTION AMOUNT. THEREAFTER, THE
7 ALTERNATIVE EXEMPTION IS ADJUSTED BIENNIALLY TO ACCOUNT FOR
8 INFLATION IN THE SAME MANNER AS SET FORTH IN SUBSECTION
9 (2)(b)(I)(A) OF THIS SECTION, AND THE ADMINISTRATOR SHALL CERTIFY
10 THE AMOUNT OF THE EXEMPTION FOR THE NEXT TWO-YEAR CYCLE AND
11 PUBLISH THE AMOUNT ON THE WEBSITE MAINTAINED BY THE DIVISION OF
12 PROPERTY TAXATION IN THE DEPARTMENT OF LOCAL AFFAIRS.

13 (3) (a) (I) FOR THE PROPERTY TAX YEAR COMMENCING ON
14 JANUARY 1, 2021, EACH ASSESSOR SHALL CALCULATE THE AGGREGATE
15 VALUE OF EXEMPT BUSINESS PERSONAL PROPERTY WITHIN THE COUNTY
16 BASED ON THE PROPERTY THAT IS LISTED ON SCHEDULES FOR THE
17 PROPERTY TAX YEAR WITH A TOTAL VALUE THAT IS MORE THAN SEVEN
18 THOUSAND NINE HUNDRED DOLLARS AND LESS THAN OR EQUAL TO FIFTY
19 THOUSAND DOLLARS.

20 (II) FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1,
21 2021, EACH TREASURER SHALL CALCULATE THE TOTAL PROPERTY TAX
22 REVENUES LOST BY ALL LOCAL GOVERNMENTAL ENTITIES WITHIN THE
23 TREASURER'S COUNTY BASED ON THE EXEMPT BUSINESS PERSONAL
24 PROPERTY AMOUNT CALCULATED IN ACCORDANCE WITH SUBSECTION
25 (3)(a)(I) OF THIS SECTION.

26 (b) NO LATER THAN FEBRUARY 1, 2022, AND EACH FEBRUARY 1
27 THEREAFTER, THE ADMINISTRATOR SHALL CALCULATE THE PERCENTAGE

1 INCREASE OR DECREASE IN TOTAL VALUATION OF BUSINESS PERSONAL
2 PROPERTY IN THE STATE OVER THE PRIOR TWO PROPERTY TAX YEARS. THE
3 ADMINISTRATOR SHALL PUBLISH THE PERCENTAGE INCREASE OR DECREASE
4 ON THE WEBSITE MAINTAINED BY THE DIVISION OF PROPERTY TAXATION
5 IN THE DEPARTMENT OF LOCAL AFFAIRS.

6 (c) (I) FOR THE PROPERTY TAX YEARS COMMENCING ON JANUARY
7 1, 2022, AND EACH YEAR THEREAFTER, EACH ASSESSOR SHALL CALCULATE
8 AN ESTIMATE OF THE AGGREGATE VALUE OF EXEMPT BUSINESS PERSONAL
9 PROPERTY FOR THE COUNTY AND EACH LOCAL GOVERNMENTAL ENTITY
10 LOCATED WITHIN THE COUNTY THAT IS EQUAL TO THE APPLICABLE
11 BASELINE EXEMPTION TOTAL ADJUSTED BY THE GROWTH FACTOR FOR
12 EACH PROPERTY TAX YEAR COMMENCING ON AND AFTER JANUARY 1,
13 2022.

14 (II) FOR THE PROPERTY TAX YEARS COMMENCING ON JANUARY 1,
15 2022, AND EACH YEAR THEREAFTER, EACH TREASURER SHALL CALCULATE
16 THE TOTAL PROPERTY TAX REVENUES LOST BY ALL LOCAL GOVERNMENTAL
17 ENTITIES WITHIN THE TREASURER'S COUNTY BASED ON THE ESTIMATE OF
18 EXEMPT BUSINESS PERSONAL PROPERTY AMOUNT CALCULATED IN
19 ACCORDANCE WITH SUBSECTION (3)(c)(I) OF THIS SECTION.

20 (III) AS USED IN THIS SUBSECTION (3)(c), UNLESS THE CONTEXT
21 OTHERWISE REQUIRES:

22 (A) "BASELINE EXEMPTION TOTAL" MEANS THE AGGREGATE
23 VALUE OF THE EXEMPT BUSINESS PERSONAL PROPERTY CALCULATED IN
24 ACCORDANCE WITH SUBSECTION (3)(a)(I) OF THIS SECTION FOR A COUNTY
25 OR A LOCAL GOVERNMENTAL ENTITY LOCATED WITHIN THE COUNTY AS OF
26 JANUARY 1, 2021.

27 (B) "GROWTH FACTOR" MEANS THE PERCENTAGE INCREASE OR

1 DECREASE THAT THE ADMINISTRATOR PUBLISHES FOR A PROPERTY TAX
2 YEAR IN ACCORDANCE WITH SUBSECTION (3)(b) OF THIS SECTION.

3 (d) NO LATER THAN MARCH 1, 2022, AND EACH MARCH 1
4 THEREAFTER, EACH TREASURER SHALL REPORT THE AMOUNT SPECIFIED IN
5 SUBSECTION (3)(a)(II) OR (3)(c)(II) OF THIS SECTION, AS APPLICABLE, AND
6 THE BASIS FOR THE AMOUNT TO THE ADMINISTRATOR, AND THE
7 ADMINISTRATOR MAY REQUIRE A TREASURER TO PROVIDE ADDITIONAL
8 INFORMATION AS NECESSARY TO EVALUATE THE AMOUNT REPORTED. THE
9 ADMINISTRATOR SHALL CONFIRM THAT THE REPORTED AMOUNT IS
10 CORRECT OR RECTIFY THE AMOUNT, IF NECESSARY. THE ADMINISTRATOR
11 SHALL THEN FORWARD THE CORRECT AMOUNT FOR EACH COUNTY TO THE
12 STATE TREASURER TO ENABLE THE STATE TREASURER TO ISSUE A
13 REIMBURSEMENT WARRANT TO EACH TREASURER IN ACCORDANCE WITH
14 SUBSECTION (3)(e) OF THIS SECTION.

15 (e) NO LATER THAN APRIL 15, 2022, AND APRIL 15 OF EACH YEAR
16 THEREAFTER, THE STATE TREASURER SHALL ISSUE A WARRANT TO BE PAID
17 UPON DEMAND FROM THE GENERAL FUND TO EACH TREASURER THAT IS
18 EQUAL TO THE AMOUNT SPECIFIED BY THE ADMINISTRATOR FOR THE
19 COUNTY UNDER SUBSECTION (3)(d) OF THIS SECTION. EACH TREASURER
20 SHALL DISTRIBUTE THE TOTAL AMOUNT RECEIVED FROM THE STATE
21 TREASURER TO THE LOCAL GOVERNMENTAL ENTITIES WITHIN THE
22 TREASURER'S COUNTY AS IF THE REVENUES HAD BEEN REGULARLY PAID AS
23 PROPERTY TAX. WHEN DISTRIBUTING THE MONEY, THE TREASURER SHALL
24 PROVIDE EACH LOCAL GOVERNMENTAL ENTITY WITH A STATEMENT OF THE
25 AMOUNT DISTRIBUTED TO THE LOCAL GOVERNMENTAL ENTITY THAT
26 REPRESENTS THE REIMBURSEMENT RECEIVED UNDER THIS SUBSECTION
27 (3)(e).

1 (f) NO LATER THAN MAY 1, 2022, AND MAY 1 OF EACH YEAR
2 THEREAFTER, THE STATE TREASURER SHALL NOTIFY THE ADMINISTRATOR
3 WHETHER ALL COUNTIES HAVE RECEIVED A REIMBURSEMENT WARRANT
4 FOR LOST PROPERTY TAX REVENUE FOR THE AMOUNTS SPECIFIED IN
5 SUBSECTION (3)(d) OF THIS SECTION.

6 (g) THIS SUBSECTION (3) DOES NOT APPLY IF THE AMOUNT OF THE
7 EXEMPTION CREATED IN SUBSECTION (1) OF THIS SECTION IS THE
8 ALTERNATIVE EXEMPTION AMOUNT AS REQUIRED BY SUBSECTION
9 (2)(b)(I)(C) OF THIS SECTION.

10 **SECTION 7.** In Colorado Revised Statutes, 39-5-128, **add** (1.5)
11 as follows:

12 **39-5-128. Certification of valuation for assessment.**

13 (1.5) ALONG WITH THE CERTIFICATION REQUIRED BY SUBSECTION (1) OF
14 THIS SECTION, THE ASSESSOR SHALL ALSO PROVIDE:

15 (a) THE AGGREGATE VALUE OF EXEMPT BUSINESS PERSONAL
16 PROPERTY SPECIFIED IN SECTION 39-3-119.5 (3)(a)(I) FOR THE PROPERTY
17 TAX YEAR COMMENCING ON JANUARY 1, 2021, WITHIN THE TERRITORIAL
18 LIMITS OF EACH TOWN, CITY, SCHOOL DISTRICT, OR SPECIAL DISTRICT; AND

19 (b) THE AMOUNT CALCULATED UNDER SECTION 39-3-119.5
20 (3)(c)(I) FOR THE ESTIMATE OF THE AGGREGATE VALUE OF EXEMPT
21 BUSINESS PERSONAL PROPERTY FOR EACH PROPERTY TAX YEAR BEGINNING
22 WITH THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2022,
23 WITHIN THE TERRITORIAL LIMITS OF EACH TOWN, CITY, SCHOOL DISTRICT,
24 OR SPECIAL DISTRICT.

25 **SECTION 8.** In Colorado Revised Statutes, 39-26-102, **amend**
26 (5.7), (6.5), and (15)(a)(I); and **add** (6.4), (6.6), and (15)(b.5) as follows:

27 **39-26-102. Definitions.** As used in this article 26, unless the

1 context otherwise requires:

2 (5.7) Repealed. "MAINFRAME COMPUTER ACCESS" MEANS THE
3 PROVISION OF ACCESS TO COMPUTER EQUIPMENT FOR THE PURPOSE OF
4 STORING OR PROCESSING DATA. "MAINFRAME COMPUTER ACCESS" DOES
5 NOT INCLUDE THE PROVISION OF ACCESS TO COMPUTER EQUIPMENT FOR
6 THE PURPOSE OF EXAMINING OR ACQUIRING DATA MAINTAINED BY THE
7 VENDOR. "MAINFRAME COMPUTER ACCESS" DOES NOT INCLUDE THE
8 PROVISION OF ACCESS TO COMPUTER EQUIPMENT INCIDENT TO ELECTRONIC
9 COMPUTER SOFTWARE DELIVERY, AS DEFINED IN SUBSECTION
10 (15)(c)(II)(C) OF THIS SECTION, OR INCIDENT TO THE USE OF COMPUTER
11 SOFTWARE HOSTED BY AN APPLICATION SERVICE PROVIDER, AS DEFINED
12 IN SUBSECTION (15)(c)(II)(A) OF THIS SECTION.

13 (6.4) "PACKING AND CRATING" MEANS TANGIBLE PERSONAL
14 PROPERTY FURNISHED TO PREPARE TANGIBLE PERSONAL PROPERTY
15 PURCHASED AT RETAIL FOR DELIVERY TO A LOCATION DESIGNATED BY THE
16 PURCHASER.

17 (6.5) "Precious metal bullion" means any precious metal,
18 including, but not limited to, gold, silver, platinum, and palladium, that
19 has been put through a process of refining and is in such a state or
20 condition that its value depends upon its precious metal content and not
21 its form. "PHOTOCOPYING" MEANS THE SALE OF A DOCUMENT RENDERED
22 ON PAPER OR OTHER SIMILAR MATERIAL BY A MACHINE THAT CREATES AN
23 ACCURATE REPRODUCTION OF THE ORIGINAL. "PHOTOCOPYING" DOES NOT
24 INCLUDE THE PROVISION OF A PHOTOCOPY IN CONNECTION WITH SERVICES
25 IF THE PURCHASER IS NOT CHARGED SEPARATELY FOR PHOTOCOPYING.

26 (6.6) "PRECIOUS METAL BULLION" MEANS ANY PRECIOUS METAL,
27 INCLUDING, BUT NOT LIMITED TO, GOLD, SILVER, PLATINUM, AND

1 PALLADIUM, THAT HAS BEEN PUT THROUGH A PROCESS OF REFINING AND
2 IS IN SUCH A STATE OR CONDITION THAT ITS VALUE DEPENDS UPON ITS
3 PRECIOUS METAL CONTENT AND NOT ITS FORM.

4 (15)(a)(I) "Tangible personal property" means corporeal personal
5 property. THE TERM EMBRACES ALL GOODS, WARES, MERCHANDISE,
6 PRODUCTS AND COMMODITIES, AND ALL TANGIBLE OR CORPOREAL THINGS
7 AND SUBSTANCES THAT ARE DEALT IN AND CAPABLE OF BEING POSSESSED
8 AND EXCHANGED, EXCEPT AS SET FORTH IN THIS SUBSECTION (15). The
9 term shall not be construed to include newspapers, as legally defined by
10 section 24-70-102, C.R.S., preprinted newspaper supplements that
11 become attached to or inserted in and distributed with such newspapers,
12 or direct mail advertising materials that are distributed in Colorado by any
13 person engaged solely and exclusively in the business of providing
14 cooperative direct mail advertising; except that, commencing March 1,
15 2010, for purposes of the state sales or use tax, "tangible personal
16 property" shall include direct mail advertising materials that are
17 distributed in Colorado by any person engaged solely and exclusively in
18 the business of providing cooperative direct mail advertising.

19 (b.5)(I) "TANGIBLE PERSONAL PROPERTY" INCLUDES DIGITAL
20 GOODS. THE METHOD OF DELIVERY DOES NOT IMPACT THE TAXABILITY OF
21 A SALE OF TANGIBLE PERSONAL PROPERTY. EXAMPLES OF METHODS USED
22 TO DELIVER TANGIBLE PERSONAL PROPERTY UNDER CURRENT
23 TECHNOLOGY INCLUDE BUT ARE NOT LIMITED TO COMPACT DISC,
24 ELECTRONIC DOWNLOAD, AND INTERNET STREAMING.

25 (II) AS USED IN THIS SUBSECTION (15)(b.5), "DIGITAL GOOD"
26 MEANS ANY ITEM OF TANGIBLE PERSONAL PROPERTY THAT IS DELIVERED
27 OR STORED BY DIGITAL MEANS, INCLUDING BUT NOT LIMITED TO VIDEO,

1 MUSIC, OR ELECTRONIC BOOKS.

2 SECTION 9. In Colorado Revised Statutes, 39-26-104, amend
3 (1)(a) as follows:

4 39-26-104. Property and services taxed - definitions - repeal.

5 (1) There is levied and there shall be collected and paid a tax in the
6 amount stated in section 39-26-106 as follows:

7 (a) On the purchase price paid or charged upon all sales and
8 purchases of tangible personal property at retail, INCLUDING, BUT NOT
9 LIMITED TO, THE AMOUNT CHARGED FOR MAINFRAME COMPUTER ACCESS,
10 PHOTOCOPYING, AND PACKING AND CRATING;

11 SECTION 10. In Colorado Revised Statutes, 39-26-105, add
12 (1)(d)(IV) as follows:

13 39-26-105. Vendor liable for tax - definitions - repeal.

14 (1) (d) (IV) BEGINNING JANUARY 1, 2022, A RETAILER IS NOT PERMITTED
15 TO RETAIN ANY MONEY TO COVER THE RETAILER'S EXPENSES IN
16 COLLECTING AND REMITTING TAX IN ACCORDANCE WITH THIS SECTION FOR
17 ANY FILING PERIOD THAT THE RETAILER'S TOTAL TAXABLE SALES WERE
18 GREATER THAN ONE MILLION DOLLARS.

19 SECTION 11. In Colorado Revised Statutes, 39-29-102, amend
20 the introductory portion and (3)(a) as follows:

21 39-29-102. Definitions. As used in this ~~article~~ ARTICLE 29, unless
22 the context otherwise requires:

23 (3) "Gross income" means:

24 (a) For oil and gas, the net amount realized by the taxpayer for
25 sale of the oil or gas, whether the sale occurs at the wellhead or after
26 transportation, manufacturing, and processing of the product. Net amount
27 shall be calculated PURSUANT TO RULES PROMULGATED BY THE

1 DEPARTMENT OF REVENUE on the basis of the gross lease revenues, less
2 deductions for ~~any~~ DIRECT COSTS ACTUALLY PAID OR ACCRUED BY THE
3 TAXPAYER FOR transportation, manufacturing, and processing ~~costs borne~~
4 ~~by the taxpayer~~ OF THE PRODUCT. FOR PURPOSES OF THIS SUBSECTION
5 (3)(a), DIRECT COSTS INCLUDE DEPRECIATION. Where the parties to the
6 sale are related parties and the sales price is lower than the price for
7 which that oil or gas could otherwise have been sold to a ready, willing,
8 and able buyer and where the taxpayer was legally able to sell the oil or
9 gas to such a buyer, gross income shall be determined by reference to
10 comparable arms-length sales of like kind, quality, and quantity in the
11 same field or area, less deductions for transportation, manufacturing, and
12 processing done prior to the sale. For purposes of this ~~paragraph (a)~~
13 SUBSECTION (3)(a), "related parties" shall be defined by the department
14 of revenue pursuant to rules and regulations.

15 **SECTION 12.** In Colorado Revised Statutes, 39-29-106, **amend**
16 (2)(b), (3), and (4); and **add** (3.5) as follows:

17 **39-29-106. Tax on the severance of coal.** (2) (b) On and after
18 July 1, 1999, BUT BEFORE JANUARY 1, 2026, no tax provided for in
19 subsection (1) of this section ~~shall be~~ IS imposed on the first:

20 (I) Three hundred thousand tons of coal produced in each quarter
21 of the ~~taxable year~~ 2021 TAXABLE YEAR;

22 (II) TWO HUNDRED FORTY THOUSAND TONS OF COAL PRODUCED IN
23 EACH QUARTER OF THE 2022 TAXABLE YEAR;

24 (III) ONE HUNDRED EIGHTY THOUSAND TONS OF COAL PRODUCED
25 IN EACH QUARTER OF THE 2023 TAXABLE YEAR;

26 (IV) ONE HUNDRED TWENTY THOUSAND TONS OF COAL PRODUCED
27 IN EACH QUARTER OF THE 2024 TAXABLE YEAR; AND

1 (V) SIXTY THOUSAND TONS OF COAL PRODUCED IN EACH QUARTER
2 OF THE 2025 TAXABLE YEAR.

3 (3) FOR TAXABLE YEARS COMMENCING PRIOR TO JANUARY 1,
4 2026, there ~~shall be~~ IS allowed, as a credit against the tax imposed by
5 subsection (1) of this section, an amount equal to ~~fifty percent~~ THE
6 PERCENTAGE SET FORTH IN SUBSECTION (3.5) OF THIS SECTION of such tax
7 for coal produced from underground mines.

8 (3.5) THE PERCENTAGE FOR THE CREDITS ALLOWED UNDER
9 SUBSECTIONS (3) AND (4) OF THIS SECTION IS EQUAL TO:

- 10 (a) FIFTY PERCENT FOR THE 2021 TAXABLE YEAR;
- 11 (b) FORTY PERCENT FOR THE 2022 TAXABLE YEAR;
- 12 (c) THIRTY PERCENT FOR THE 2023 TAXABLE YEAR;
- 13 (d) TWENTY PERCENT FOR THE 2024 TAXABLE YEAR; AND
- 14 (e) TEN PERCENT FOR THE 2025 TAXABLE YEAR.

15 (4) FOR TAXABLE YEARS COMMENCING PRIOR TO JANUARY 1,
16 2026, there ~~shall be~~ IS allowed, as an additional credit against the tax
17 imposed by subsection (1) of this section, an amount equal to ~~fifty percent~~
18 THE PERCENTAGE SET FORTH IN SUBSECTION (3.5) OF THIS SECTION of such
19 tax for the production of lignitic coal, as such coal is classified by the
20 American society for testing and materials (ASTM) in their D 388
21 standard for the classification of coals by rank.

22 **SECTION 13.** In Colorado Revised Statutes, 39-29-108, **amend**
23 (2)(b); and **add** (2)(d) as follows:

24 **39-29-108. Allocation of severance tax revenues - definitions**
25 **- repeal.** (2) (b) EXCEPT AS SET FORTH IN SUBSECTION (2)(d) OF THIS
26 SECTION, of the total gross receipts realized from the severance taxes
27 imposed on minerals and mineral fuels under the provisions of this article

1 after June 30, 2017, fifty percent shall be credited to the state severance
2 tax trust fund created by section 39-29-109, and fifty percent shall be
3 credited to the local government severance tax fund created by section
4 39-29-110.

5 (d) THE STATE TREASURER SHALL CREDIT AN AMOUNT OF THE
6 INCREASED COAL TAX THAT IS ATTRIBUTABLE TO THE REDUCTION OR
7 DISCONTINUATION OF THE EXEMPTION IN SECTION 39-29-106 (2)(b) AND
8 THE CREDITS IN SECTION 39-29-106 (3) AND (4) TO THE JUST TRANSITION
9 CASH FUND CREATED IN SECTION 8-83-504 (1).

10 **SECTION 14.** In Colorado Revised Statutes, 8-83-504, **amend**
11 (1) as follows:

12 **8-83-504. Just transition cash fund.** (1) There is hereby created
13 in the state treasury the just transition cash fund. The fund consists of
14 money credited to the fund IN ACCORDANCE WITH SECTION 39-29-108
15 (2)(d) and any other money that the general assembly may appropriate or
16 transfer to the fund. The state treasurer shall credit all interest and income
17 derived from the deposit and investment of money in the fund to the fund.
18 Subject to annual appropriation by the general assembly, the office may
19 expend money from the fund for purposes specified in this part 5,
20 including paying for the office's direct and indirect costs in administering
21 this part 5.

22 **SECTION 15. Appropriation.** (1) For the 2021-22 state fiscal
23 year, \$274,142 is appropriated to the department of revenue. This
24 appropriation is from the general fund. To implement this act, the
25 department may use this appropriation as follows:

26 (a) \$87,250 for use by the taxation business group for personal
27 services related to taxation services, which amount is based on an

- 1 assumption that the group will require an additional 1.3 FTE;
- 2 (b) \$7,955 for use by the taxation business group for operating
- 3 expenses related to taxation services;
- 4 (c) \$178,425 for tax administration IT system (GenTax) support;
- 5 and
- 6 (d) \$512 for the purchase of document management services.

7 (2) For the 2021-22 state fiscal year, \$512 is appropriated to the

8 department of personnel. This appropriation is from reappropriated funds

9 received from the department of revenue under subsection (1)(d) of this

10 section. To implement this act, the department of personnel may use this

11 appropriation to provide document management services for the

12 department of revenue.

13 (3) For the 2021-22 state fiscal year, \$138,500 is appropriated to

14 the department of local affairs for use by the executive director's office.

15 This appropriation is from the general fund. To implement this act, the

16 department may use this appropriation for the purchase of information

17 technology services.

18 (4) For the 2021-22 state fiscal year, \$138,500 is appropriated to

19 the office of the governor for use by the office of information technology.

20 This appropriation is from reappropriated funds received from the

21 department of local affairs under subsection (3) of this section. To

22 implement this act, the office may use this appropriation to provide

23 information technology services for the department of local affairs.

24 **SECTION 16. Severability.** If any section of this House Bill

25 21-1312, or the application thereof to any person or circumstance is held

26 invalid, such invalidity does not affect other provisions, applications, or

27 sections of this House Bill 21-1312 that can be given effect without the

1 invalid provision, application, or section, and to this end the provisions,
2 applications, and sections of this House Bill 21-1312 are declared to be
3 severable.

4 **SECTION 17. Effective date.** This act takes effect July 1, 2021;
5 except that section 11 of this act takes effect on January 1, 2022.

6 **SECTION 18. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, or safety.