

CHAPTER 209

GOVERNMENT - STATE

SENATE BILL 22-233

BY SENATOR(S) Hinrichsen and Rodriguez, Buckner, Danielson, Donovan, Fields, Ginal, Gonzales, Hansen, Jaquez Lewis, Kolker, Lee, Moreno, Pettersen, Story, Winter, Zenzinger, Fenberg;
also REPRESENTATIVE(S) Exum and Daugherty, Amabile, Bacon, Bernett, Bird, Boesenecker, Cutter, Duran, Froelich, Gonzales-Gutierrez, Herod, Jodeh, Kipp, Lindsay, Lontine, McCluskie, McCormick, McLachlan, Michaelson Jenet, Mullica, Ortiz, Ricks, Sirota, Snyder, Sullivan, Titone, Valdez A., Valdez D., Weissman, Young, Garnett.

AN ACT

CONCERNING AN ADDITIONAL MECHANISM TO REFUND EXCESS STATE REVENUES FOR STATE FISCAL YEAR 2021-22 ONLY THAT PROVIDES A REFUND IN AN IDENTICAL AMOUNT TO EACH QUALIFIED RESIDENT INDIVIDUAL, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 39-21-113, **add** (31) as follows:

39-21-113. Reports and returns - rule - repeal. (31) (a) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, IN ORDER FOR CALL CENTER SUPPORT TO BE PROVIDED AS IT RELATES TO THE REFUND OF EXCESS STATE REVENUES FROM ALL SOURCES SET FORTH IN SECTION 39-22-2004, THE EXECUTIVE DIRECTOR MAY SUPPLY THE DEPARTMENT OF PERSONNEL OR A THIRD-PARTY VENDOR CONTRACTED TO PROVIDE THE CALL CENTER SERVICES WITH INFORMATION NECESSARY FOR SUPPORT TO BE FACILITATED AND PROVIDED TO TAXPAYERS. ANY INFORMATION PROVIDED TO THE DEPARTMENT OF PERSONNEL OR A THIRD-PARTY VENDOR CONTRACTED TO PROVIDE THE CALL CENTER SERVICES PURSUANT TO THIS SUBSECTION (31)(a) REMAINS CONFIDENTIAL, AND ALL PERSONS WITHIN THE DEPARTMENT OF PERSONNEL OR EMPLOYEES OF A THIRD-PARTY VENDOR ARE SUBJECT TO THE LIMITATIONS SET FORTH IN SUBSECTION (4) OF THIS SECTION AND THE PENALTIES CONTAINED IN SUBSECTION (6) OF THIS SECTION.

(b) THIS SUBSECTION (31) IS REPEALED, EFFECTIVE JULY 1, 2027.

SECTION 2. In Colorado Revised Statutes, **add** 39-22-2004 as follows:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

39-22-2004. Temporary refund of excess state revenues from all sources - definitions - repeal. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ADDITIONAL EXCESS STATE REVENUES" MEANS THE TOTAL AMOUNT OF THE STATE REVENUES IN EXCESS OF THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7)(a) OF ARTICLE X OF THE STATE CONSTITUTION THAT THE STATE IS REQUIRED TO REFUND UNDER SECTION 20 (7)(d) OF ARTICLE X OF THE STATE CONSTITUTION, INCLUDING ANY AMOUNT SPECIFIED IN SECTION 24-77-103.8, AND THAT EXCEEDS THE AMOUNTS PROJECTED TO BE REFUNDED AS REQUIRED BY SECTION 39-3-209, SECTION 39-22-627, OR BOTH OF SAID SECTIONS FOR THE STATE FISCAL YEAR COMMENCING ON JULY 1, 2021.

(b) (I) "QUALIFIED INDIVIDUAL" MEANS A NATURAL PERSON WHO IS AT LEAST EIGHTEEN YEARS OF AGE AS OF DECEMBER 31, 2021, WHO IS A RESIDENT OF THE STATE FOR THE ENTIRE INCOME TAX YEAR COMMENCING ON JANUARY 1, 2021, AND, EXCEPT AS PROVIDED IN SUBSECTION (1)(b)(II) OF THIS SECTION, WHO, ON OR BEFORE JUNE 30, 2022, EITHER FILES A STATE INCOME TAX RETURN FOR THAT INCOME TAX YEAR OR APPLIES FOR A GRANT PURSUANT TO ARTICLE 31 OF THIS TITLE 39.

(II) "QUALIFIED INDIVIDUAL" ALSO MEANS A NATURAL PERSON WHO IS AT LEAST EIGHTEEN YEARS OF AGE AS OF DECEMBER 31, 2021, WHO IS A RESIDENT OF THE STATE FOR THE ENTIRE INCOME TAX YEAR COMMENCING ON JANUARY 1, 2021, AND WHO WAS GRANTED AN EXTENSION TO FILE A 2021 INCOME TAX RETURN AND TIMELY FILES AN INCOME TAX RETURN ON OR BEFORE THE EXTENDED FILING DATE.

(c) "TEMPORARY REFUND AMOUNT" MEANS:

(I) FOUR HUNDRED DOLLARS FOR A QUALIFIED INDIVIDUAL FILING A SINGLE STATE INCOME TAX RETURN OR WHO APPLIES FOR A GRANT PURSUANT TO ARTICLE 31 OF THIS TITLE 39 AND EIGHT HUNDRED DOLLARS FOR TWO QUALIFIED INDIVIDUALS FILING A JOINT STATE INCOME TAX RETURN OR WHO APPLY FOR A GRANT PURSUANT TO ARTICLE 31 OF THIS TITLE 39; OR

(II) THE ADJUSTED AMOUNT SET BY THE EXECUTIVE DIRECTOR PURSUANT TO SUBSECTION (2)(d) OF THIS SECTION.

(d) "TOTAL EXCESS STATE REVENUES" MEANS THE TOTAL AMOUNT OF THE STATE REVENUES PROJECTED TO BE IN EXCESS OF THE LIMITATION OF STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7)(a) OF ARTICLE X OF THE STATE CONSTITUTION THAT THE STATE IS REQUIRED TO REFUND UNDER SECTION 20 (7)(d) OF ARTICLE X OF THE STATE CONSTITUTION, INCLUDING ANY AMOUNT SPECIFIED IN SECTION 24-77-103.8, FOR STATE FISCAL YEAR 2021-22.

(2)(a) IF, FOR THE STATE FISCAL YEAR COMMENCING ON JULY 1, 2021, THERE ARE ADDITIONAL EXCESS STATE REVENUES, THEN THERE SHALL BE ALLOWED A REFUND TO EACH QUALIFIED INDIVIDUAL OF THE TEMPORARY REFUND AMOUNT.

(b) IF THE REQUIREMENTS SET FORTH IN SUBSECTION (2)(a) OF THIS SECTION ARE MET, THEN NO LATER THAN SEPTEMBER 30, 2022, THE DEPARTMENT OF REVENUE

SHALL ISSUE TO EACH QUALIFIED INDIVIDUAL AND TO EACH JOINT FILING OR GRANT APPLICANT PAIR OF QUALIFIED INDIVIDUALS A REIMBURSEMENT WARRANT FOR THE APPLICABLE TEMPORARY REFUND AMOUNT PAID FROM THE GENERAL FUND; EXCEPT THAT, FOR A QUALIFIED INDIVIDUAL DESCRIBED IN SUBSECTION (1)(b)(II) OF THIS SECTION, THE DEPARTMENT OF REVENUE SHALL ISSUE A REIMBURSEMENT WARRANT PURSUANT TO THIS SUBSECTION (2)(b) NO LATER THAN JANUARY 31, 2023.

(c) ON OR BEFORE AUGUST 1, 2022, THE EXECUTIVE DIRECTOR SHALL CERTIFY THE TEMPORARY REFUND AMOUNT. THE DEPARTMENT OF REVENUE SHALL ISSUE AND MAIL THE REFUND WARRANT FOR THE TEMPORARY REFUND AMOUNT TO THE MOST RECENT CORRECT MAILING ADDRESS PROVIDED BY THE QUALIFIED INDIVIDUAL.

(d) (I) IF BEFORE JUNE 30, 2022, AND BASED ON THE LATEST PROJECTIONS UPDATED FOR ACTUAL STATE REVENUES RECEIVED THROUGH APRIL 30, 2022, THE PROJECTED AGGREGATE TEMPORARY REFUND AMOUNT BASED ON THE REFUND AMOUNTS SET FORTH IN SUBSECTION (1)(c)(I) OF THIS SECTION PLUS AMOUNTS PROJECTED TO BE REFUNDED PURSUANT TO SECTIONS 39-3-209 AND 39-22-627 WILL CAUSE THE STATE TO REFUND LESS THAN EIGHTY-FIVE PERCENT OF THE TOTAL EXCESS STATE REVENUES PURSUANT TO THIS SECTION, THEN THE EXECUTIVE DIRECTOR, IN CONSULTATION WITH LEGISLATIVE COUNCIL STAFF, SHALL INCREASE THE TEMPORARY REFUND AMOUNT IN A MANNER THAT MAINTAINS AN EQUAL TEMPORARY REFUND FOR EVERY QUALIFIED INDIVIDUAL THAT IS DOUBLED FOR EACH PAIR OF QUALIFIED INDIVIDUALS FILING A JOINT RETURN OR APPLYING JOINTLY FOR A GRANT PURSUANT TO ARTICLE 31 OF THIS TITLE 39 SO THAT THE AGGREGATE AMOUNT REFUNDED PURSUANT TO THIS SECTION PLUS AMOUNTS PROJECTED TO BE REFUNDED PURSUANT TO SECTIONS 39-3-209 AND 39-22-627 IS APPROXIMATELY EQUAL TO EIGHTY-FIVE PERCENT OF THE TOTAL EXCESS STATE REVENUES.

(II) IF BEFORE JUNE 30, 2022, AND BASED ON THE LATEST PROJECTIONS UPDATED FOR ACTUAL STATE REVENUES RECEIVED THROUGH APRIL 30, 2022, THE PROJECTED AGGREGATE TEMPORARY REFUND AMOUNT BASED ON THE REFUND AMOUNTS SET FORTH IN SUBSECTION (1)(c)(I) OF THIS SECTION PLUS AMOUNTS PROJECTED TO BE REFUNDED PURSUANT TO SECTIONS 39-3-209 AND 39-22-627 WILL CAUSE THE STATE TO REFUND MORE THAN EIGHTY-SEVEN PERCENT OF THE TOTAL EXCESS STATE REVENUES PURSUANT TO THIS SECTION, THEN THE EXECUTIVE DIRECTOR, IN CONSULTATION WITH LEGISLATIVE COUNCIL STAFF, MAY DECREASE THE TEMPORARY REFUND AMOUNT TO AVOID AN OVER-REFUND, AS DEFINED IN SECTION 24-77-103.7 (1). IF THE EXECUTIVE DIRECTOR DETERMINES THAT A DECREASE TO THE TEMPORARY REFUND AMOUNT SET FORTH IN SUBSECTION (1)(c)(I) OF THIS SECTION SHOULD BE MADE, THE EXECUTIVE DIRECTOR SHALL MAKE THE DECREASE IN A MANNER THAT MAINTAINS AN EQUAL TEMPORARY REFUND FOR EVERY QUALIFIED INDIVIDUAL THAT IS DOUBLED FOR EACH PAIR OF QUALIFIED INDIVIDUALS FILING A JOINT RETURN OR APPLYING JOINTLY FOR A GRANT PURSUANT TO ARTICLE 31 OF THIS TITLE 39.

(III) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (2)(d), THE EXECUTIVE DIRECTOR SHALL ADJUST THE TEMPORARY REFUND AMOUNT UNDER THIS SUBSECTION (2)(d) TO THE NEAREST FIFTY DOLLAR INCREMENT.

(3) THE EXECUTIVE DIRECTOR, IN CONSULTATION WITH LEGISLATIVE COUNCIL STAFF, SHALL CALCULATE THE AGGREGATE TEMPORARY REFUND AMOUNT

ESTIMATED TO BE ALLOWED TO QUALIFIED INDIVIDUALS DESCRIBED IN SUBSECTION (1)(b)(II) OF THIS SECTION, WHICH AMOUNT MUST BE HELD IN RESERVE TO MAKE REFUNDS TO THOSE QUALIFIED INDIVIDUALS AND SHALL NOT BE REFUNDED PURSUANT TO SECTION 39-22-2002.

(4) THE REFUND OF EXCESS STATE REVENUES FROM ALL SOURCES ALLOWED UNDER THIS SECTION IS A REASONABLE METHOD OF REFUNDING A PORTION OF THE EXCESS STATE REVENUES REQUIRED TO BE REFUNDED IN ACCORDANCE WITH SECTION 20 (7)(d) OF ARTICLE X OF THE STATE CONSTITUTION.

(5)(a) THE REFUND OF EXCESS STATE REVENUE FROM ALL SOURCES ALLOWED TO ANY QUALIFIED INDIVIDUAL UNDER THIS SECTION SHALL NOT BE REPORTED BY THE DEPARTMENT OF REVENUE AS A PAYMENT OF A REFUND, CREDIT, OR OFFSET OF STATE INCOME TAXES TO THE QUALIFIED INDIVIDUAL IN ANY INFORMATION RETURN REQUIRED TO BE FILED PURSUANT TO FEDERAL LAW.

(b) THE REFUND OF EXCESS STATE REVENUE FROM ALL SOURCES SET FORTH IN THIS SECTION IS SUBJECT TO THE PROVISIONS UNDER SECTION 39-21-108 FOR A QUALIFIED INDIVIDUAL TO THE EXTENT OF ANY UNPAID BALANCE OR UNPAID DEBT AS SET FORTH IN SECTION 39-21-108 (3).

(c) A TAX PREPARER IS NOT LIABLE IF THE PREPARER IS UNABLE TO FILE A TAXPAYER'S 2021 STATE INCOME TAX RETURN BY JUNE 30, 2022, WHEN A TAXPAYER TIMELY FILED, AND WAS GRANTED, A TAX EXTENSION AS LONG AS THE TAX PREPARER FILES THE TAX RETURN BY OCTOBER 17, 2022.

(6) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2027.

SECTION 3. In Colorado Revised Statutes, 39-22-605, **amend** (2)(c) as follows:

39-22-605. Failure by individual to pay estimated income tax. (2) As used in this section, unless the context otherwise requires:

(c) "Tax" or "tax liability" means the tax imposed under this article minus the credits against tax provided by this article other than the credits against tax for withholding pursuant to sections 39-22-601 (4), 39-22-604, and 39-22-604.5 and THE CREDITS AGAINST TAX FOR THE SALES TAX REFUND PURSUANT TO SECTION 39-22-2003 AND THE REFUND OF EXCESS STATE REVENUES FROM ALL SOURCES PURSUANT TO SECTION 39-22-2004.

SECTION 4. Appropriation. (1) For the 2022-23 state fiscal year, \$2,578,995 is appropriated to the department of revenue. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) \$564,487 for use by the taxation business group for personal services related to taxation services, which amount is based on an assumption that the division will require an additional 11.5 FTE;

(b) \$89,925 for use by the taxation business group for operating expenses related to taxation services;

(c) \$1,715,635 for the purchase of document management services;

(d) \$196,148 for tax administration IT system (GenTax) support; and

(e) \$12,800 for use by the executive director's office for personal services related to administration and support.

(2) For the 2022-23 state fiscal year, \$1,715,635 is appropriated to the department of personnel. This appropriation is from reappropriated funds received from the department of revenue under subsection (1)(c) of this section. To implement this act, the department of personnel may use this appropriation to provide document management services for the department of revenue.

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

Approved: May 23, 2022