

Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 20-1268.02 Esther van Mourik x4215

HOUSE BILL 20-1420

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HOUSE SPONSORSHIP

Sirota and Gray,

SENATE SPONSORSHIP

Moreno and Hansen,

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House Committees

Finance  
Appropriations

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING THE ADJUSTMENT OF CERTAIN STATE TAX EXPENDITURES  
102 IN ORDER TO ALLOCATE ADDITIONAL REVENUES TO THE STATE  
103 EDUCATION FUND.

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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 1** of the bill specifies that the act shall be known as the "Tax Fairness Act".

**Sections 2 and 3** require taxpayers to add to federal taxable income:

! For income tax years ending on and after the enactment of

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.

the March 2020 "Coronavirus Aid, Relief, and Economic Security Act" (CARES Act), but before January 1, 2021, and for income tax years beginning on and after the enactment of the CARES Act, but before January 1, 2021, an amount equal to the difference between a taxpayer's net operating loss deduction as determined under federal law before the amendments made by section 2303 of the CARES Act and the taxpayer's net operating loss deduction as determined under federal law after the amendments made by section 2303 of the CARES Act;

- ! For income tax years ending on and after the enactment of the CARES Act, but before January 1, 2021, and for income tax years beginning on and after the enactment of the CARES Act, but before January 1, 2021, an amount equal to a taxpayer's excess business loss as determined under federal law without regard to the amendments made by section 2304 of the CARES Act, but with regard to the technical amendment made in that section of the CARES Act;
- ! For income tax years ending on and after the enactment of the CARES Act, but before January 1, 2021, and for income tax years beginning on and after the enactment of the CARES Act, but before January 1, 2021, an amount equal to the amount in excess of the limitation on business interest under federal law without regard to the amendments made by section 2306 of the CARES Act; and
- ! For income tax years commencing on or after January 1, 2021, an amount equal to the deduction for qualified business income for an individual taxpayer who files a single return and whose adjusted gross income is greater than \$75,000, and for an individual taxpayer who files a joint return and whose adjusted gross income is greater than \$150,000. This federal deduction may be claimed for income tax years commencing prior to January 1, 2026.

**Section 4** limits the amount of net operating loss that a corporation may carry forward to \$400,000. This section also specifies that a corporation may add the amount of all net operating losses that a corporation is prohibited from subtracting, with interest, to the allowable net operating loss that is carried forward by the corporation.

**Section 5** eliminates the state income tax modification for qualifying net capital gains for income tax years commencing on or after January 1, 2021.

**Sections 6 and 7** repeal the exemption from the state sales and use taxes for the sales, purchase, storage, use, or consumption of electricity, coal, gas, fuel oil, steam, coke, or nuclear fuel, for use in processing,

manufacturing, mining, refining, irrigation, construction, telegraph, telephone, and radio communication, street and railroad transportation services, and all industrial uses, for filing periods on and after August 1, 2020, except not the state sales and use tax exemption for newsprint and printer's ink for use by publishers of newspapers and commercial printers.

**Section 8** creates a sales and use tax refund, not to exceed \$1,000 per filing period, for filing periods on and after August 1, 2020, for all state sales and use tax paid by the taxpayer on the sale, storage, use, or consumption of electricity, coal, gas, fuel oil, steam, coke, or nuclear fuel, for use in processing, manufacturing, mining, refining, irrigation, construction, telegraph, telephone, and radio communication, and all industrial uses; except that the \$1,000 per filing period limit does not apply to the sale, storage, use, or consumption of:

- ! Diesel fuel purchased for off-road use;
- ! Electricity, coal, gas, fuel oil, steam, coke, or nuclear fuel purchased for agricultural purposes;
- ! Coal, gas, fuel oil, steam, coke, or nuclear fuel for use in generating electricity; and
- ! Electricity, coal, gas, fuel oil, steam, coke, or nuclear fuel for use in street and railroad transportation services.

**Sections 9 and 10** prevent the elimination of the sales tax exemption and the creation of the sales tax refund from affecting county and municipal sales and use taxes.

**Section 11** repeals the statutes that provide an insurance premium tax rate reduction for insurance companies maintaining a home office or a regional home office in the state. Section 11 also clarifies that, for purposes of the insurance premium tax, an "annuity plan" or an "annuity consideration" does not include a deposit-type contract that does not incorporate mortality or morbidity risks, such as a guaranteed investment or interest certificate, a supplementary contract without life contingencies, an annuity certain, a premium fund or other deposit fund, a dividend accumulation, a coupon accumulation, a lottery payout, or a structured settlement.

The earned income tax credit is equal to a percentage of the federal earned income tax credit. **Section 12** increases the percentage from 10% to 20% beginning in 2023. Section 12 also specifies that for income tax years commencing on or after January 1, 2020, taxpayers filing with an individual taxpayer identification number are eligible for the earned income tax credit.

**Section 13** specifies that the state treasurer shall transfer the following amounts from the general fund to the state education fund created in section 17 (4) of article IX of the state constitution for the following fiscal years:

- ! \$150,000,000 for the fiscal year 2021-22;
- ! \$200,000,000 for the fiscal year 2022-23;

! \$200,000,000 for the fiscal year 2023-24; and  
! \$200,000,000 for the fiscal year 2024-25.

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

2 **SECTION 1. Short title.** The short title of this act is the "Tax  
3 Fairness Act".

4 **SECTION 2.** In Colorado Revised Statutes, 39-22-104, **add**  
5 (3)(l), (3)(m), (3)(n), and (3)(o) as follows:

6 **39-22-104. Income tax imposed on individuals, estates, and**  
7 **trusts - single rate - legislative declaration - definitions - repeal.**

8 (3) There shall be added to the federal taxable income:

9 (l) FOR INCOME TAX YEARS ENDING ON AND AFTER THE  
10 ENACTMENT OF THE MARCH 2020 "CORONAVIRUS AID, RELIEF, AND  
11 ECONOMIC SECURITY ACT", PUB. L. 116-136, REFERRED TO IN THIS  
12 SECTION AS THE "CARES ACT", BUT BEFORE JANUARY 1, 2021, AND FOR  
13 INCOME TAX YEARS BEGINNING ON AND AFTER THE ENACTMENT OF THE  
14 "CARES ACT", BUT BEFORE JANUARY 1, 2021, AN AMOUNT EQUAL TO THE  
15 DIFFERENCE BETWEEN A TAXPAYER'S NET OPERATING LOSS DEDUCTION AS  
16 DETERMINED UNDER SECTION 172 (a) OF THE INTERNAL REVENUE CODE  
17 BEFORE THE AMENDMENTS MADE BY SECTION 2303 OF THE "CARES ACT"  
18 AND THE TAXPAYER'S NET OPERATING LOSS DEDUCTION AS DETERMINED  
19 UNDER SECTION 172 (a) OF THE INTERNAL REVENUE CODE AFTER THE  
20 AMENDMENTS MADE BY SECTION 2303 OF THE "CARES ACT".

21 (m) FOR INCOME TAX YEARS ENDING ON AND AFTER THE  
22 ENACTMENT OF THE "CARES ACT", BUT BEFORE JANUARY 1, 2021, AND  
23 FOR INCOME TAX YEARS BEGINNING ON AND AFTER THE ENACTMENT OF  
24 THE "CARES ACT", BUT BEFORE JANUARY 1, 2021, AN AMOUNT EQUAL TO  
25 A TAXPAYER'S EXCESS BUSINESS LOSS AS DETERMINED UNDER SECTION

1 461 (l) OF THE INTERNAL REVENUE CODE WITHOUT REGARD TO THE  
2 AMENDMENTS MADE BY SECTION 2304 OF THE "CARES ACT", BUT WITH  
3 REGARD TO THE TECHNICAL AMENDMENT MADE BY SECTION 2304  
4 (b)(2)(B) OF THE "CARES ACT".

5 (n) FOR INCOME TAX YEARS ENDING ON AND AFTER THE  
6 ENACTMENT OF THE "CARES ACT", BUT BEFORE JANUARY 1, 2021, AND  
7 FOR INCOME TAX YEARS BEGINNING ON AND AFTER THE ENACTMENT OF  
8 THE "CARES ACT", BUT BEFORE JANUARY 1, 2021, AN AMOUNT EQUAL TO  
9 THE AMOUNT IN EXCESS OF THE LIMITATION ON BUSINESS INTEREST UNDER  
10 SECTION 163 (j) OF THE INTERNAL REVENUE CODE WITHOUT REGARD TO  
11 THE AMENDMENTS MADE BY SECTION 2306 OF THE "CARES ACT".

12 (o) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY  
13 1, 2021, AN AMOUNT EQUAL TO THE DEDUCTION ALLOWED UNDER SECTION  
14 199A OF THE INTERNAL REVENUE CODE FOR A TAXPAYER WHO FILES A  
15 SINGLE RETURN AND WHOSE ADJUSTED GROSS INCOME IS GREATER THAN  
16 SEVENTY-FIVE THOUSAND DOLLARS, AND FOR TAXPAYERS WHO FILE A  
17 JOINT RETURN AND WHOSE ADJUSTED GROSS INCOME IS GREATER THAN  
18 ONE HUNDRED FIFTY THOUSAND DOLLARS.

19 **SECTION 3.** In Colorado Revised Statutes, 39-22-304, **add** (2)(i)  
20 as follows:

21 **39-22-304. Net income of corporation - legislative declaration**  
22 **- definitions - repeal.** (2) There shall be added to federal taxable income:

23 (i) FOR INCOME TAX YEARS ENDING ON AND AFTER THE  
24 ENACTMENT OF THE MARCH 2020 "CORONAVIRUS AID, RELIEF, AND  
25 ECONOMIC SECURITY ACT", PUB. L. 116-136, REFERRED TO IN THIS  
26 SECTION AS THE "CARES ACT", BUT BEFORE JANUARY 1, 2021, AND FOR  
27 INCOME TAX YEARS BEGINNING ON AND AFTER THE ENACTMENT OF THE

1 "CARES ACT", BUT BEFORE JANUARY 1, 2021, AN AMOUNT EQUAL TO THE  
2 AMOUNT IN EXCESS OF THE LIMITATION ON BUSINESS INTEREST UNDER  
3 SECTION 163 (j) OF THE INTERNAL REVENUE CODE WITHOUT REGARD TO  
4 THE AMENDMENTS MADE BY SECTION 2306 OF THE "CARES ACT".

5 **SECTION 4.** In Colorado Revised Statutes, 39-22-504, **amend**  
6 (1); and **add** (7) as follows:

7 **39-22-504. Net operating losses.** (1) (a) A net operating loss  
8 deduction shall be allowed in the same manner that it is allowed under the  
9 internal revenue code except as otherwise provided in this section. The  
10 amount of the net operating loss that may be carried forward and carried  
11 back for Colorado income tax purposes shall be that portion of the federal  
12 net operating loss allocated to Colorado under this ~~article~~ ARTICLE 22 in  
13 the taxable year that the net operating loss is sustained.

14 (b) FOR LOSSES INCURRED AFTER DECEMBER 31, 2017, THE EIGHTY  
15 PERCENT LIMITATION SET FORTH IN SECTION 172 (a)(2) OF THE INTERNAL  
16 REVENUE CODE SHALL APPLY WITHOUT REGARD TO THE AMENDMENTS  
17 MADE IN SECTION 2303 OF THE MARCH 2020 "CORONAVIRUS AID, RELIEF,  
18 AND ECONOMIC SECURITY ACT", PUB. L. 116-136.

19 (7) (a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS  
20 SECTION, THE MAXIMUM AMOUNT OF NET OPERATING LOSS THAT A  
21 CORPORATION MAY SUBTRACT FROM FEDERAL TAXABLE INCOME  
22 PURSUANT TO SECTION 39-22-304 (3)(g) FOR A TAX YEAR COMMENCING  
23 ON OR AFTER JANUARY 1, 2021, IS FOUR HUNDRED THOUSAND DOLLARS.

24 (b) A CORPORATION MAY ADD AN AMOUNT EQUAL TO THE AMOUNT  
25 OF ALL NET OPERATING LOSSES THAT A CORPORATION IS PROHIBITED FROM  
26 SUBTRACTING FROM FEDERAL TAXABLE INCOME PURSUANT TO  
27 SUBSECTION (7)(a) OF THIS SECTION MULTIPLIED BY A RATE OF INTEREST

1 EQUAL TO THREE AND ONE-QUARTER PERCENT PER ANNUM FOR THE  
2 PERIOD DURING WHICH SUCH NET OPERATING LOSSES ARE PROHIBITED TO  
3 THE ALLOWABLE NET OPERATING LOSS THAT IS CARRIED FORWARD BY THE  
4 CORPORATION. FOR THE PURPOSE OF SECTION 39-22-304 (3)(g), THAT  
5 AMOUNT IS CONSIDERED NET OPERATING LOSS.

6 **SECTION 5.** In Colorado Revised Statutes, 39-22-518, **amend**  
7 (1) as follows:

8 **39-22-518. Tax modification for net capital gains.** (1) For  
9 income tax years commencing on or after July 1, 1995, BUT BEFORE  
10 JANUARY 1, 2021, a modification, in the form of a reduction of income  
11 taxable by the state of Colorado, shall be allowed to any qualified  
12 taxpayer for the amount of income attributable to qualifying gains  
13 receiving capital treatment earned by the qualified taxpayer during the  
14 taxable year and included in federal taxable income.

15 **SECTION 6.** In Colorado Revised Statutes, 39-26-102, **amend**  
16 (21)(a) as follows:

17 **39-26-102. Definitions.** As used in this article 26, unless the  
18 context otherwise requires:

19 (21) (a) (I) FOR FILING PERIODS BEFORE AUGUST 1, 2020, sales and  
20 purchases of electricity, coal, gas, fuel oil, steam, coke, or nuclear fuel,  
21 for use in processing, manufacturing, mining, refining, irrigation,  
22 construction, telegraph, telephone, and radio communication, street and  
23 railroad transportation services, and all industrial uses, and newsprint and  
24 printer's ink for use by publishers of newspapers and commercial printers  
25 shall be deemed to be wholesale sales and shall be exempt from taxation  
26 under this part 1.

27 (II) FOR FILING PERIODS ON AND AFTER AUGUST 1, 2020, SALES

1 AND PURCHASES OF NEWSPRINT AND PRINTER'S INK FOR USE BY  
2 PUBLISHERS OF NEWSPAPERS AND COMMERCIAL PRINTERS ARE EXEMPT  
3 FROM TAXATION UNDER THIS PART 1.

4 (III) SUBSECTION (21)(a)(I) OF THIS SECTION IS REPEALED,  
5 EFFECTIVE AUGUST 1, 2025.

6 **SECTION 7.** In Colorado Revised Statutes, 39-26-715, **amend**  
7 (2) introductory portion and (2)(b)(I) as follows:

8 **39-26-715. Fuel and oil - definitions - repeal.** (2) The following  
9 are exempt from taxation under the provisions of ~~part 2 of this article~~ THIS  
10 ARTICLE 26:

11 (b) (I) (A) FOR FILING PERIODS BEFORE AUGUST 1, 2020, the  
12 storage, use, or consumption of electricity, coal, coke, fuel oil, steam,  
13 nuclear fuel, or gas for use in processing, manufacturing, mining,  
14 refining, irrigation, building construction, telegraph, telephone, and radio  
15 communication, street and railroad transportation services, and all  
16 industrial uses.

17 (B) THIS SUBSECTION (2)(b)(I) IS REPEALED, EFFECTIVE AUGUST  
18 1, 2025.

19 **SECTION 8.** In Colorado Revised Statutes, **add** 39-26-730 as  
20 follows:

21 **39-26-730. Refund of state sales and use tax for certain types**  
22 **of fuel - application requirements and procedures.** (1) FOR FILING  
23 PERIODS ON AND AFTER AUGUST 1, 2020, A TAXPAYER IS ALLOWED TO  
24 CLAIM A REFUND, NOT TO EXCEED ONE THOUSAND DOLLARS PER FILING  
25 PERIOD, OF ALL STATE SALES AND USE TAX PAID BY THE TAXPAYER,  
26 PURSUANT TO PARTS 1 AND 2 OF THIS ARTICLE 26, ON THE SALE, STORAGE,  
27 USE, OR CONSUMPTION OF ELECTRICITY, COAL, GAS, FUEL OIL, STEAM,



1 COKE, OR NUCLEAR FUEL, FOR USE IN PROCESSING, MANUFACTURING,  
2 MINING, REFINING, IRRIGATION, CONSTRUCTION, TELEGRAPH, TELEPHONE,  
3 AND RADIO COMMUNICATION, AND ALL INDUSTRIAL USES; EXCEPT THAT  
4 THE ONE THOUSAND DOLLAR PER FILING PERIOD LIMIT DOES NOT APPLY TO  
5 THE SALE, STORAGE, USE, OR CONSUMPTION OF THE FOLLOWING:

6 (a) DIESEL FUEL PURCHASED FOR OFF-ROAD USE;

7 (b) ELECTRICITY, COAL, GAS, FUEL OIL, STEAM, COKE, OR NUCLEAR  
8 FUEL PURCHASED FOR AGRICULTURAL PURPOSES;

9 (c) COAL, GAS, FUEL OIL, STEAM, COKE, OR NUCLEAR FUEL FOR USE  
10 IN GENERATING ELECTRICITY; AND

11 (d) ELECTRICITY, COAL, GAS, FUEL OIL, STEAM, COKE, OR  
12 NUCLEAR FUEL FOR USE IN STREET AND RAILROAD TRANSPORTATION  
13 SERVICES.

14 (2) TO CLAIM THE REFUND ALLOWED BY SUBSECTION (1) OF THIS  
15 SECTION, A TAXPAYER SHALL SUBMIT A REFUND APPLICATION TO THE  
16 DEPARTMENT OF REVENUE ON A FORM PROVIDED BY THE DEPARTMENT.  
17 THE DEPARTMENT SHALL ESTABLISH BY RULE ALL NECESSARY  
18 PROCEDURES FOR CLAIMING THE REFUND.

19 **SECTION 9.** In Colorado Revised Statutes, 39-26-127, **amend**  
20 (1) introductory portion; and **add** (1)(f) as follows:

21 **39-26-127. Legislation modifying the state sales tax base - no**  
22 **impact on local government sales tax bases - no expansion of local**  
23 **authority to levy sales tax.** (1) Notwithstanding the provisions of  
24 section 29-2-105 (1)(d), ~~C.R.S.~~, any provision of title 32, ~~C.R.S.~~, or any  
25 other provision of law, and except as set forth in subsection (3) of this  
26 section, the levying of sales tax on, exemption from sales tax for, or local  
27 option to levy sales tax on or provide an exemption from sales tax for any

1 tangible personal property or services under the sales tax ordinance or  
2 resolution of any county, municipality, special district, authority, or other  
3 local government or political subdivision of the state shall not be affected  
4 in any way by the elimination, suspension, or modification of any sales  
5 tax exemption or any other legislative modification of the state sales tax  
6 base resulting from the enactment of any of the following bills:

7 (f) SECTIONS 39-26-102 (21)(a), 39-26-715 (2) INTRODUCTORY  
8 PORTION AND (2)(b)(I), AND 39-26-730 AS AMENDED OR ENACTED BY  
9 HOUSE BILL 20-\_\_\_\_, ENACTED IN 2020.

10 **SECTION 10.** In Colorado Revised Statutes, 39-26-212, **amend**  
11 (1) introductory portion; and **add** (1)(f) as follows:

12 **39-26-212. Legislation modifying the state use tax base - no**  
13 **impact on local government use tax bases - no expansion of local**  
14 **authority to levy use tax.** (1) Notwithstanding the provisions of section  
15 29-2-105 (1)(d), ~~C.R.S.~~, any provision of title 32, ~~C.R.S.~~, or any other  
16 provision of law, and except as set forth in subsection (3) of this section,  
17 the levying of use tax on, exemption from use tax for, or local option to  
18 levy use tax on or provide an exemption from use tax for any tangible  
19 personal property or services under the use tax ordinance or resolution of  
20 any county, municipality, special district, authority, or other local  
21 government or political subdivision of the state shall not be affected in  
22 any way by the elimination, suspension, or modification of any use tax  
23 exemption or any other legislative modification of the state use tax base  
24 resulting from the enactment of any of the following bills:

25 (f) SECTIONS 39-26-102 (21)(a), 39-26-715 (2) INTRODUCTORY  
26 PORTION AND (2)(b)(I), AND 39-26-730 AS AMENDED OR ENACTED BY  
27 HOUSE BILL 20-\_\_\_\_, ENACTED IN 2020.

1           **SECTION 11.** In Colorado Revised Statutes, 10-3-209, **amend**  
2 (1)(b)(I)(B), (1)(b)(III), and (1)(d)(IV); and **repeal** (1)(b)(II) as follows:

3           **10-3-209. Tax on premiums collected - exemptions - penalties**  
4 **- repeal.** (1) (b) (I) The rate of tax shall be as follows:

5           (B) For companies maintaining a home office or a regional home  
6 office in this state, the rate of tax on the gross amount FOR TAXES DUE  
7 AND PAYABLE BEFORE MARCH 1, 2021, shall be one percent.

8           ~~(II) For purposes of this paragraph (b), any company is deemed to~~  
9 ~~maintain a home office or regional home office in this state if such~~  
10 ~~company either:~~

11           ~~(A) Substantially performs in this state the following functions,~~  
12 ~~or substantially equivalent functions, for the company for each state in~~  
13 ~~which the company is licensed, or for three or more of such states:~~  
14 ~~Actuarial, medical, legal, approval or rejection of applications, issuance~~  
15 ~~of policies, information and service, advertising and publications, public~~  
16 ~~relations, hiring, testing, and training of sales and service forces; or~~

17           ~~(B) Maintains significant direct insurance operations in this state~~  
18 ~~that are supported by functional operations which are both necessary for~~  
19 ~~and pertinent to a line or lines of business written by the company in this~~  
20 ~~state.~~

21           (III) (A) Any company desiring to qualify an office in this state as  
22 a home or regional home office shall make application for qualification  
23 to the commissioner on forms prescribed by the commissioner and shall  
24 submit proof that it is operating a home or a regional home office in this  
25 state. Applications for companies that were not approved in the  
26 immediate preceding year shall be received by the commissioner by  
27 December 31 of the year immediately preceding the year for which the

1 application for qualification is being made. Applications for companies  
2 that were approved in the immediate preceding year shall be received by  
3 the commissioner by March 1 of the year for which qualification is being  
4 made. Applications for companies that were approved in the immediate  
5 preceding year received through March 31 shall pay a late charge of one  
6 hundred dollars per day for each day after March 1 that any such  
7 application is received by the commissioner. Applications received after  
8 March 31 shall be denied. The provisions of subsection (2) of this section  
9 shall not apply to companies maintaining a home office or regional home  
10 office in this state.

11 (B) THIS SUBSECTION (1)(b)(III) IS REPEALED, EFFECTIVE MARCH  
12 1, 2021.

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

1 or contracted for after December 31, 1976.

2 (B) FOR PREMIUMS COLLECTED ON AND AFTER MARCH 1, 2020, AN  
3 "ANNUITY PLAN" OR AN "ANNUITY CONSIDERATION" DOES NOT INCLUDE  
4 A DEPOSIT-TYPE CONTRACT THAT DOES NOT INCORPORATE MORTALITY OR  
5 MORBIDITY RISKS, SUCH AS A GUARANTEED INVESTMENT OR INTEREST  
6 CERTIFICATE, A SUPPLEMENTARY CONTRACT WITHOUT LIFE  
7 CONTINGENCIES, AN ANNUITY CERTAIN, A PREMIUM FUND OR OTHER  
8 DEPOSIT FUND, A DIVIDEND ACCUMULATION, A COUPON ACCUMULATION,  
9 A LOTTERY PAYOUT, OR A STRUCTURED SETTLEMENT.

10 **SECTION 12.** In Colorado Revised Statutes, 39-22-123.5,  
11 **amend** (1)(h) and (2); **repeal** (3); and **add** (2.5) as follows:

12 **39-22-123.5. Earned income tax credit - not a refund of excess**  
13 **state revenues - trigger - legislative declaration - definition.** (1) The  
14 general assembly hereby finds and declares that:

15 (h) Now, therefore, it is the intent of the general assembly to  
16 establish a permanent and refundable state earned income tax credit for  
17 eligible Colorado taxpayers. ~~which is equal to ten percent of the federal~~  
18 ~~earned income tax credit.~~ The intended purpose of this credit is to help  
19 individuals and families achieve greater financial security and to help  
20 Colorado's economy.

21 (2) (a) For an income tax year ~~specified in subsection (3) of this~~  
22 ~~section~~ COMMENCING PRIOR TO JANUARY 1, 2023, a resident individual  
23 who claims an earned income tax credit on the individual's federal tax  
24 return is allowed an earned income tax credit against the taxes due under  
25 this ~~article~~ ARTICLE 22 that is equal to ten percent of the federal credit that  
26 the resident individual claimed on his or her federal tax return for the  
27 same tax year.

1           (b) FOR AN INCOME TAX YEAR COMMENCING ON OR AFTER  
2 JANUARY 1, 2023, A RESIDENT INDIVIDUAL WHO CLAIMS AN EARNED  
3 INCOME TAX CREDIT ON THE INDIVIDUAL'S FEDERAL TAX RETURN IS  
4 ALLOWED AN EARNED INCOME TAX CREDIT AGAINST THE TAXES DUE  
5 UNDER THIS ARTICLE 22 THAT IS EQUAL TO TWENTY PERCENT OF THE  
6 FEDERAL CREDIT THAT THE RESIDENT INDIVIDUAL CLAIMED ON HIS OR HER  
7 FEDERAL TAX RETURN FOR THE SAME TAX YEAR.

8           (2.5) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER  
9 JANUARY 1, 2020, BUT BEFORE JANUARY 1, 2023, A RESIDENT INDIVIDUAL  
10 IS ALLOWED AN EARNED INCOME TAX CREDIT AGAINST THE TAXES DUE  
11 UNDER THIS ARTICLE 22 THAT IS EQUAL TO TEN PERCENT OF THE FEDERAL  
12 CREDIT THAT THE RESIDENT INDIVIDUAL WOULD HAVE BEEN ALLOWED,  
13 BUT FOR THE FACT THAT THE RESIDENT INDIVIDUAL, THE RESIDENT  
14 INDIVIDUAL'S SPOUSE, OR ONE OR MORE OF THE RESIDENT INDIVIDUAL'S  
15 DEPENDENTS DO NOT HAVE A SOCIAL SECURITY NUMBER THAT IS VALID  
16 FOR EMPLOYMENT.

17           (b) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY  
18 1, 2023, A RESIDENT INDIVIDUAL IS ALLOWED AN EARNED INCOME TAX  
19 CREDIT AGAINST THE TAXES DUE UNDER THIS ARTICLE 22 THAT IS EQUAL  
20 TO TWENTY PERCENT OF THE FEDERAL CREDIT THAT THE TAXPAYER  
21 WOULD HAVE BEEN ALLOWED, BUT FOR THE FACT THAT THE RESIDENT  
22 INDIVIDUAL, THE RESIDENT INDIVIDUAL'S SPOUSE, OR ONE OR MORE OF THE  
23 RESIDENT INDIVIDUAL'S DEPENDENTS DO NOT HAVE A SOCIAL SECURITY  
24 NUMBER THAT IS VALID FOR EMPLOYMENT.

25           (c) FOR PURPOSES OF THIS SUBSECTION (2.5), A "RESIDENT  
26 INDIVIDUAL" INCLUDES A TAXPAYER FILING WITH AN INDIVIDUAL  
27 TAXPAYER IDENTIFICATION NUMBER.

1           (3) ~~If a credit is allowed under section 39-22-123 for an income~~  
2 ~~tax year commencing on or after January 1, 2013, the credit allowed~~  
3 ~~under this section may be claimed for any income tax year beginning with~~  
4 ~~the income tax year after the income tax year that the credit is allowed~~  
5 ~~under section 39-22-123.~~

6           **SECTION 13.** In Colorado Revised Statutes, 24-75-220, **add** (6)  
7 as follows:

8           **24-75-220. State education fund - transfers - surplus -**  
9 **legislative declaration.** (6) (a) ON JULY 1, 2021, THE STATE TREASURER  
10 SHALL TRANSFER ONE HUNDRED FIFTY MILLION DOLLARS FROM THE  
11 GENERAL FUND TO THE STATE EDUCATION FUND CREATED IN SECTION 17  
12 (4) OF ARTICLE IX OF THE STATE CONSTITUTION FOR THE FISCAL YEAR  
13 2021-22.

14           (b) ON JULY 1, 2022, THE STATE TREASURER SHALL TRANSFER TWO  
15 HUNDRED MILLION DOLLARS FROM THE GENERAL FUND TO THE STATE  
16 EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE IX OF THE  
17 STATE CONSTITUTION FOR THE FISCAL YEAR 2022-23.

18           (c) ON JULY 1, 2023, THE STATE TREASURER SHALL TRANSFER TWO  
19 HUNDRED MILLION DOLLARS FROM THE GENERAL FUND TO THE STATE  
20 EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE IX OF THE  
21 STATE CONSTITUTION FOR THE FISCAL YEAR 2023-24.

22           (d) ON JULY 1, 2024, THE STATE TREASURER SHALL TRANSFER TWO  
23 HUNDRED MILLION DOLLARS FROM THE GENERAL FUND TO THE STATE  
24 EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE IX OF THE  
25 STATE CONSTITUTION FOR THE FISCAL YEAR 2024-25.

26           **SECTION 14. Effective date.** This act takes effect upon passage;  
27 except that section 10-3-209 (1)(b)(II), Colorado Revised Statutes, as

1 repealed in section 11 of this act, takes effect March 1, 2021.

2           **SECTION 15. Safety clause.** The general assembly hereby finds,  
3 determines, and declares that this act is necessary for the immediate  
4 preservation of the public peace, health, or safety.