

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 20-1268.02 Esther van Mourik x4215

HOUSE BILL 20-1420

HOUSE SPONSORSHIP

Sirota and Gray,

SENATE SPONSORSHIP

Moreno and Hansen,

House Committees

Finance
Appropriations

Senate Committees

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, AND, IN CONNECTION THEREWITH, MAKING**
104 **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 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

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.

income:

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

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

1 THE "CARES ACT", BUT BEFORE JANUARY 1, 2021, AN AMOUNT EQUAL TO
2 A TAXPAYER'S EXCESS BUSINESS LOSS AS DETERMINED UNDER SECTION
3 461 (l) OF THE INTERNAL REVENUE CODE WITHOUT REGARD TO THE
4 AMENDMENTS MADE BY SECTION 2304 OF THE "CARES ACT", BUT WITH
5 REGARD TO THE TECHNICAL AMENDMENT MADE BY SECTION 2304
6 (b)(2)(B) OF THE "CARES ACT".

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

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

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

23 **39-22-304. Net income of corporation - legislative declaration**
24 **- definitions - repeal.** (2) There shall be added to federal taxable income:

25 (i) FOR INCOME TAX YEARS ENDING ON AND AFTER THE
26 ENACTMENT OF THE MARCH 2020 "CORONAVIRUS AID, RELIEF, AND
27 ECONOMIC SECURITY ACT", PUB. L. 116-136, REFERRED TO IN THIS

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

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

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

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

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

26 (b) A CORPORATION MAY ADD AN AMOUNT EQUAL TO THE AMOUNT
27 OF ALL NET OPERATING LOSSES THAT A CORPORATION IS PROHIBITED FROM

1 SUBTRACTING FROM FEDERAL TAXABLE INCOME PURSUANT TO
2 SUBSECTION (7)(a) OF THIS SECTION MULTIPLIED BY A RATE OF INTEREST
3 EQUAL TO THREE AND ONE-QUARTER PERCENT PER ANNUM FOR THE
4 PERIOD DURING WHICH SUCH NET OPERATING LOSSES ARE PROHIBITED TO
5 THE ALLOWABLE NET OPERATING LOSS THAT IS CARRIED FORWARD BY THE
6 CORPORATION. FOR THE PURPOSE OF SECTION 39-22-304 (3)(g), THAT
7 AMOUNT IS CONSIDERED NET OPERATING LOSS.

8 **SECTION 5.** In Colorado Revised Statutes, 39-22-518, **amend**
9 **(1); and add (9)** as follows:

10 **39-22-518. Tax modification for net capital gains - repeal.**

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

17 **(9) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2028.**

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

20 **39-26-102. Definitions.** As used in this article 26, unless the
21 context otherwise requires:

22 (21) (a) (I) FOR SALES AND PURCHASES MADE BEFORE AUGUST 1,
23 2020, sales and purchases of electricity, coal, gas, fuel oil, steam, coke,
24 or nuclear fuel, for use in processing, manufacturing, mining, refining,
25 irrigation, construction, telegraph, telephone, and radio communication,
26 street and railroad transportation services, and all industrial uses, and
27 newsprint and printer's ink for use by publishers of newspapers and

1 commercial printers shall be deemed to be wholesale sales and shall be
2 exempt from taxation under this part 1.

3 (II) FOR SALES AND PURCHASES MADE ON AND AFTER AUGUST 1,
4 2020, SALES AND PURCHASES OF NEWSPRINT AND PRINTER'S INK FOR USE
5 BY PUBLISHERS OF NEWSPAPERS AND COMMERCIAL PRINTERS ARE DEEMED
6 TO BE WHOLESALE SALES AND ARE EXEMPT FROM TAXATION UNDER THIS
7 PART 1.

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

10 **SECTION 7.** In Colorado Revised Statutes, 39-26-705, **amend**
11 (1) as follows:

12 **39-26-705. Miscellaneous use tax exemptions - printers ink**
13 **and newsprint - manufactured goods.** (1) (a) (I) FOR SALES AND
14 PURCHASES MADE BEFORE AUGUST 1, 2020, the storage, use, or
15 consumption of printers ink and newsprint shall be exempt from taxation
16 under the provisions of part 2 of this ~~article~~ ARTICLE 26.

17 (II) THIS SUBSECTION (1)(a) IS REPEALED, EFFECTIVE AUGUST 1,
18 2025.

19 (b) FOR SALES AND PURCHASES MADE AFTER AUGUST 1, 2020, THE
20 STORAGE, USE, OR CONSUMPTION OF NEWSPRINT AND PRINTER'S INK FOR
21 USE BY PUBLISHERS OF NEWSPAPERS AND COMMERCIAL PRINTERS ARE
22 EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 2 OF THIS
23 ARTICLE 26.

24 **SECTION 8.** In Colorado Revised Statutes, 39-26-715, **amend**
25 (2) introductory portion and (2)(b)(I) as follows:

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

1 ARTICLE 26:

2 (b) (I) (A) FOR SALES AND PURCHASES MADE BEFORE AUGUST 1,
3 2020, the storage, use, or consumption of electricity, coal, coke, fuel oil,
4 steam, nuclear fuel, or gas for use in processing, manufacturing, mining,
5 refining, irrigation, building construction, telegraph, telephone, and radio
6 communication, street and railroad transportation services, and all
7 industrial uses.

8 (B) THIS SUBSECTION (2)(b)(I) IS REPEALED, EFFECTIVE AUGUST
9 1, 2025.

10 **SECTION 9.** In Colorado Revised Statutes, **add** 39-26-730 as
11 follows:

12 **39-26-730. Refund of state sales and use tax for certain types**
13 **of fuel - application requirements and procedures.** (1) FOR SALES AND
14 PURCHASES MADE ON AND AFTER AUGUST 1, 2020, A PURCHASER IS
15 ALLOWED TO CLAIM A REFUND, NOT TO EXCEED ONE THOUSAND DOLLARS
16 PER MONTH, OF ALL STATE SALES AND USE TAX PAID BY THE PURCHASER,
17 PURSUANT TO PARTS 1 AND 2 OF THIS ARTICLE 26, ON THE SALE, STORAGE,
18 USE, OR CONSUMPTION OF ELECTRICITY, COAL, GAS, FUEL OIL, STEAM,
19 COKE, OR NUCLEAR FUEL, FOR USE IN PROCESSING, MANUFACTURING,
20 MINING, REFINING, IRRIGATION, CONSTRUCTION, TELEGRAPH, TELEPHONE,
21 AND RADIO COMMUNICATION, AND ALL INDUSTRIAL USES; EXCEPT THAT
22 THE ONE THOUSAND DOLLAR PER MONTH LIMIT DOES NOT APPLY TO THE
23 SALE, STORAGE, USE, OR CONSUMPTION OF THE FOLLOWING:

- 24 (a) DIESEL FUEL PURCHASED FOR OFF-ROAD USE;
- 25 (b) ELECTRICITY, COAL, GAS, FUEL OIL, STEAM, COKE, OR NUCLEAR
26 FUEL PURCHASED FOR AGRICULTURAL PURPOSES;
- 27 (c) COAL, GAS, FUEL OIL, STEAM, COKE, OR NUCLEAR FUEL FOR USE

1 BY A UTILITY COMPANY TO GENERATE ELECTRICITY FOR RETAIL OR
2 WHOLESale SALE; AND

3 (d) ELECTRICITY, COAL, GAS, FUEL OIL, STEAM, COKE, OR
4 NUCLEAR FUEL FOR USE IN STREET AND RAILROAD TRANSPORTATION
5 SERVICES.

6 (2) TO CLAIM THE REFUND ALLOWED BY SUBSECTION (1) OF THIS
7 SECTION, A PURCHASER SHALL SUBMIT A REFUND APPLICATION TO THE
8 DEPARTMENT OF REVENUE ON A FORM PROVIDED BY THE DEPARTMENT.
9 THE DEPARTMENT SHALL ESTABLISH BY RULE ALL NECESSARY
10 PROCEDURES FOR CLAIMING THE REFUND.

11 **SECTION 10.** In Colorado Revised Statutes, 39-26-127, **amend**
12 (1) introductory portion; and **add** (1)(f) as follows:

13 **39-26-127. Legislation modifying the state sales tax base - no**
14 **impact on local government sales tax bases - no expansion of local**
15 **authority to levy sales tax.** (1) Notwithstanding the provisions of
16 section 29-2-105 (1)(d), ~~C.R.S.~~, any provision of title 32, ~~C.R.S.~~, or any
17 other provision of law, and except as set forth in subsection (3) of this
18 section, the levying of sales tax on, exemption from sales tax for, or local
19 option to levy sales tax on or provide an exemption from sales tax for any
20 tangible personal property or services under the sales tax ordinance or
21 resolution of any county, municipality, special district, authority, or other
22 local government or political subdivision of the state shall not be affected
23 in any way by the elimination, suspension, or modification of any sales
24 tax exemption or any other legislative modification of the state sales tax
25 base resulting from the enactment of any of the following bills:

26 (f) SECTIONS 39-26-102 (21)(a), 39-26-715 (2) INTRODUCTORY
27 PORTION AND (2)(b)(I), AND 39-26-730 AS AMENDED OR ENACTED BY

1 HOUSE BILL 20-1420, ENACTED IN 2020.

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

4 39-26-212. Legislation modifying the state use tax base - no
5 impact on local government use tax bases - no expansion of local
6 authority to levy use tax. (1) Notwithstanding the provisions of section
7 29-2-105 (1)(d), ~~C.R.S.~~, any provision of title 32, ~~C.R.S.~~, or any other
8 provision of law, and except as set forth in subsection (3) of this section,
9 the levying of use tax on, exemption from use tax for, or local option to
10 levy use tax on or provide an exemption from use tax for any tangible
11 personal property or services under the use tax ordinance or resolution of
12 any county, municipality, special district, authority, or other local
13 government or political subdivision of the state shall not be affected in
14 any way by the elimination, suspension, or modification of any use tax
15 exemption or any other legislative modification of the state use tax base
16 resulting from the enactment of any of the following bills:

17 (f) SECTIONS 39-26-102 (21)(a), 39-26-715 (2) INTRODUCTORY
18 PORTION AND (2)(b)(I), AND 39-26-730 AS AMENDED OR ENACTED BY
19 HOUSE BILL 20-1420, ENACTED IN 2020.

20 SECTION 12. In Colorado Revised Statutes, 10-3-209, amend
21 (1)(b)(I)(B), (1)(b)(III), and (1)(d)(IV); and repeal (1)(b)(II) as follows:

22 10-3-209. Tax on premiums collected - exemptions - penalties
23 - repeal. (1) (b) (I) The rate of tax shall be as follows:

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

27 (II) For purposes of this paragraph (b), any company is deemed to

1 ~~maintain a home office or regional home office in this state if such~~
2 ~~company either:~~

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

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

13 (III) (A) Any company desiring to qualify an office in this state as
14 a home or regional home office shall make application for qualification
15 to the commissioner on forms prescribed by the commissioner and shall
16 submit proof that it is operating a home or a regional home office in this
17 state. Applications for companies that were not approved in the
18 immediate preceding year shall be received by the commissioner by
19 December 31 of the year immediately preceding the year for which the
20 application for qualification is being made. Applications for companies
21 that were approved in the immediate preceding year shall be received by
22 the commissioner by March 1 of the year for which qualification is being
23 made. Applications for companies that were approved in the immediate
24 preceding year received through March 31 shall pay a late charge of one
25 hundred dollars per day for each day after March 1 that any such
26 application is received by the commissioner. Applications received after
27 March 31 shall be denied. The provisions of subsection (2) of this section

1 shall not apply to companies maintaining a home office or regional home
2 office in this state.

3 (B) THIS SUBSECTION (1)(b)(III) IS REPEALED, EFFECTIVE MARCH
4 1, 2021.

5 (d) (IV) (A) Except to the extent provided in SUBSECTION
6 (1)(d)(IV)(B) AND subsection (2) of this section, the tax imposed by this
7 section shall not apply to premiums collected or contracted for after
8 December 31, 1968, on policies or contracts issued in connection with a
9 pension, profit sharing, or annuity plan established by an employer for
10 employees if contributions by such employer thereunder are deductible by
11 such employer in determining such employer's net income as defined in
12 section 39-22-304, ~~C.R.S.~~, and shall not apply to premiums collected or
13 contracted for after December 31, 1968, on policies or contracts
14 purchased for an employee by an employer if such employer is exempt
15 under section 39-22-112, ~~C.R.S.~~, from the tax imposed by article 22 of
16 title 39, ~~C.R.S.~~, or is a state, a political subdivision of a state, or an
17 agency or instrumentality of a state or political subdivision of a state.
18 Except to the extent provided in subsection (2) of this section, the tax
19 imposed by this section shall not apply to annuity considerations collected
20 or contracted for after December 31, 1976.

21 (B) FOR PREMIUMS COLLECTED ON AND AFTER MARCH 1, 2020, AN
22 "ANNUITY PLAN" OR AN "ANNUITY CONSIDERATION" DOES NOT INCLUDE
23 A DEPOSIT-TYPE CONTRACT THAT DOES NOT INCORPORATE MORTALITY OR
24 MORBIDITY RISKS, SUCH AS A GUARANTEED INVESTMENT OR INTEREST
25 CERTIFICATE, A SUPPLEMENTARY CONTRACT WITHOUT LIFE
26 CONTINGENCIES, AN ANNUITY CERTAIN, A PREMIUM FUND OR OTHER
27 DEPOSIT FUND, A DIVIDEND ACCUMULATION, A COUPON ACCUMULATION,

1 A LOTTERY PAYOUT, OR A STRUCTURED SETTLEMENT.

2 **SECTION 13.** In Colorado Revised Statutes, 39-22-123.5,
3 **amend** (1)(h) and (2); **repeal** (3); and **add** (2.5) as follows:

4 **39-22-123.5. Earned income tax credit - not a refund of excess**
5 **state revenues - trigger - legislative declaration - definition.** (1) The
6 general assembly hereby finds and declares that:

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

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

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

27 (2.5) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER

1 JANUARY 1, 2020, BUT BEFORE JANUARY 1, 2023, A RESIDENT INDIVIDUAL
2 IS ALLOWED AN EARNED INCOME TAX CREDIT AGAINST THE TAXES DUE
3 UNDER THIS ARTICLE 22 THAT IS EQUAL TO TEN PERCENT OF THE FEDERAL
4 CREDIT THAT THE RESIDENT INDIVIDUAL WOULD HAVE BEEN ALLOWED,
5 BUT FOR THE FACT THAT THE RESIDENT INDIVIDUAL, THE RESIDENT
6 INDIVIDUAL'S SPOUSE, OR ONE OR MORE OF THE RESIDENT INDIVIDUAL'S
7 DEPENDENTS DO NOT HAVE A SOCIAL SECURITY NUMBER THAT IS VALID
8 FOR EMPLOYMENT.

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

17 (c) FOR PURPOSES OF THIS SUBSECTION (2.5), A "RESIDENT
18 INDIVIDUAL" INCLUDES A TAXPAYER FILING WITH AN INDIVIDUAL
19 TAXPAYER IDENTIFICATION NUMBER.

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

25 **SECTION 14.** In Colorado Revised Statutes, 24-75-220, **add** (6)
26 as follows:

27 **24-75-220. State education fund - transfers - surplus -**

1 **legislative declaration.** (6) (a) ON JULY 1, 2021, THE STATE TREASURER
2 SHALL TRANSFER ONE HUNDRED FIFTY MILLION DOLLARS FROM THE
3 GENERAL FUND TO THE STATE EDUCATION FUND CREATED IN SECTION 17
4 (4) OF ARTICLE IX OF THE STATE CONSTITUTION FOR THE FISCAL YEAR
5 2021-22.

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

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

14 (d) ON JULY 1, 2024, 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 2024-25.

18 **SECTION 15. Appropriation.** (1) For the 2020-21 state fiscal
19 year, \$4,777,659 is appropriated to the department of revenue. This
20 appropriation is from the general fund. To implement this act, the
21 department may use this appropriation as follows:

22 (a) \$405,134 for use by the executive director's office for health,
23 life, and dental;

24 (b) \$3,637 for use by the executive director's office for short-term
25 disability;

26 (c) \$106,978 for use by the executive director's office for S.B.
27 04-257 amortization equalization disbursement;

- 1 (d) \$106,978 for use by the executive director's office for S.B.
2 06-235 supplemental amortization equalization disbursement;
3 (e) \$280,500 for leased space;
4 (f) \$2,403,800 for use by the taxation and compliance division for
5 personal services, which amount is based on an assumption that the
6 division will require an additional 42.5 FTE;
7 (g) \$347,570 for use by the taxation and compliance division for
8 operating expenses;
9 (h) \$1,121,862 for tax administration IT system (GenTax) support;
10 and
11 (i) \$1,200 for the purchase of document management services.

12 (2) For the 2020-21 state fiscal year, \$1,200 is appropriated to the
13 department of personnel. This appropriation is from reappropriated funds
14 received from the department of revenue under subsection (1)(i) of this
15 section. To implement this act, the department of personnel may use this
16 appropriation to provide document management services for the
17 department of revenue.

18 **SECTION 16. Effective date.** This act takes effect upon passage;
19 except that section 10-3-209 (1)(b)(II), Colorado Revised Statutes, as
20 repealed in section 11 of this act, takes effect March 1, 2021.

21 **SECTION 17. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, or safety.