

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 22-1049.01 Megan McCall x4215

SENATE BILL 22-233

SENATE SPONSORSHIP

Hinrichsen and Rodriguez,

HOUSE SPONSORSHIP

Exum and Daugherty,

Senate Committees

Finance

Appropriations

House Committees

A BILL FOR AN ACT

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

Bill Summary

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

If the state exceeds its constitutional spending limit, then it is required by the Taxpayer's Bill of Rights (TABOR) to refund the excess

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.

SENATE
Amended 2nd Reading
May 2, 2022

state revenues (TABOR refunds). There are currently 3 TABOR refund mechanisms: Reimbursement to counties for the senior homestead exemption, a temporary income tax rate reduction, and a sales tax refund.

The bill establishes a temporary fourth TABOR refund mechanism for excess state revenues from all sources for state fiscal year 2021-22. Under this mechanism, if the amount of excess state revenues exceeds the projected total amount of TABOR refunds issued as reimbursement to counties for the senior homestead exemption and, if applicable, through the temporary income tax rate reduction, then on or before September 30, 2022, the state treasurer is required to issue refund checks to every qualified individual in an identical amount. The amount of the refund is \$400 for every qualified individual who files a single income tax return or who receives a property tax, rent, or heat credit rebate and \$800 for each pair of qualified individuals who file a joint income tax return or who receive a property tax, rent, or heat credit rebate; except that the executive director of the department of revenue has the authority to adjust these amounts to avoid refunding more excess state revenues than are required to be refunded based on the amount or anticipated amount of excess state revenues set forth in the state controller's certification of state revenues.

"Qualified individual" is defined for purposes of the bill as a natural person who is a Colorado resident for the entire 2021 income tax year and files a state income tax return for the 2021 income tax year or receives a property tax, rent, or heat credit rebate.

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

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

4 **39-21-113. Reports and returns - rule - repeal.**
5 (31) (a) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, IN ORDER
6 FOR CALL CENTER SUPPORT TO BE PROVIDED AS IT RELATES TO THE
7 REFUND OF EXCESS STATE REVENUES FROM ALL SOURCES SET FORTH IN
8 SECTION 39-22-2004, THE EXECUTIVE DIRECTOR MAY SUPPLY THE
9 DEPARTMENT OF PERSONNEL OR A THIRD-PARTY VENDOR CONTRACTED TO
10 PROVIDE THE CALL CENTER SERVICES WITH INFORMATION NECESSARY FOR
11 SUPPORT TO BE FACILITATED AND PROVIDED TO TAXPAYERS. ANY

1 INFORMATION PROVIDED TO THE DEPARTMENT OF PERSONNEL OR A
2 THIRD-PARTY VENDOR CONTRACTED TO PROVIDE THE CALL CENTER
3 SERVICES PURSUANT TO THIS SUBSECTION (31)(a) REMAINS CONFIDENTIAL,
4 AND ALL PERSONS WITHIN THE DEPARTMENT OF PERSONNEL OR
5 EMPLOYEES OF A THIRD-PARTY VENDOR ARE SUBJECT TO THE LIMITATIONS
6 SET FORTH IN SUBSECTION (4) OF THIS SECTION AND THE PENALTIES
7 CONTAINED IN SUBSECTION (6) OF THIS SECTION.

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

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

11 **39-22-2004. Temporary refund of excess state revenues from**
12 **all sources - definitions - repeal.** (1) AS USED IN THIS SECTION, UNLESS
13 THE CONTEXT OTHERWISE REQUIRES:

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

23 (b)(I) "QUALIFIED INDIVIDUAL" MEANS A NATURAL PERSON WHO
24 IS AT LEAST EIGHTEEN YEARS OF AGE AS OF DECEMBER 31, 2021, WHO IS
25 A RESIDENT OF THE STATE FOR THE ENTIRE INCOME TAX YEAR
26 COMMENCING ON JANUARY 1, 2021, AND, EXCEPT AS PROVIDED IN
27 SUBSECTION (1)(b)(II) OF THIS SECTION, WHO, ___ ON OR BEFORE JUNE 30,

1 2022, EITHER FILES A STATE INCOME TAX RETURN FOR THAT INCOME TAX
2 YEAR OR APPLIES FOR A GRANT PURSUANT TO ARTICLE 31 OF THIS TITLE
3 39.

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

10 (c) "TEMPORARY REFUND AMOUNT" MEANS:

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

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

19 (2) (a) IF, FOR THE STATE FISCAL YEAR COMMENCING ON JULY 1,
20 2021, THERE ARE ADDITIONAL EXCESS STATE REVENUES, THEN THERE
21 SHALL BE ALLOWED A REFUND TO EACH QUALIFIED INDIVIDUAL OF THE
22 TEMPORARY REFUND AMOUNT.

23 (b) IF THE REQUIREMENTS SET FORTH IN SUBSECTION (2)(a) OF THIS
24 SECTION ARE MET, THEN NO LATER THAN SEPTEMBER 30, 2022, THE
25 DEPARTMENT OF REVENUE SHALL ISSUE TO EACH QUALIFIED INDIVIDUAL
26 AND TO EACH JOINT FILING OR GRANT APPLICANT PAIR OF QUALIFIED
27 INDIVIDUALS A REIMBURSEMENT WARRANT FOR THE APPLICABLE

1 TEMPORARY REFUND AMOUNT PAID FROM THE GENERAL FUND; EXCEPT
2 THAT, FOR A QUALIFIED INDIVIDUAL DESCRIBED IN SUBSECTION (1)(b)(II)
3 OF THIS SECTION, THE DEPARTMENT OF REVENUE SHALL ISSUE A
4 REIMBURSEMENT WARRANT PURSUANT TO THIS SUBSECTION (2)(b) NO
5 LATER THAN JANUARY 31, 2023.

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

11 (d) ON OR AFTER JULY 1, 2022, BUT BEFORE AUGUST 1, 2022, THE
12 EXECUTIVE DIRECTOR, IN CONSULTATION WITH LEGISLATIVE COUNCIL
13 STAFF AND THE STATE CONTROLLER, MAY DETERMINE THAT THE
14 TEMPORARY REFUND AMOUNT SET FORTH IN SUBSECTION (1)(c)(I) OF THIS
15 SECTION NEEDS TO BE ADJUSTED BASED ON THE STATE REVENUES IN
16 EXCESS OF THE LIMITATION OF STATE FISCAL YEAR SPENDING IMPOSED BY
17 SECTION 20 (7)(a) OF ARTICLE X OF THE STATE CONSTITUTION THAT THE
18 STATE IS REQUIRED TO REFUND UNDER SECTION 20 (7)(d) OF ARTICLE X OF
19 THE STATE CONSTITUTION, INCLUDING ANY AMOUNT SPECIFIED IN SECTION
20 24-77-103.8, THAT ARE INCLUDED IN, OR ANTICIPATED TO BE INCLUDED IN,
21 THE STATE CONTROLLER'S CERTIFICATION OF STATE REVENUES PREPARED
22 IN ACCORDANCE WITH SECTION 24-77-103.6 (1)(b) FOR STATE FISCAL
23 YEAR 2021-22; EXCEPT THAT ANY ADJUSTMENT SHALL NOT CAUSE REFUND
24 AMOUNTS UNDER THIS SECTION TO EXCEED THE AMOUNTS SET FORTH IN
25 SUBSECTION (1)(c)(I) OF THIS SECTION. IF THE EXECUTIVE DIRECTOR
26 DETERMINES THAT AN ADJUSTMENT TO THE TEMPORARY REFUND AMOUNT
27 SET FORTH IN SUBSECTION (1)(c)(I) OF THIS SECTION SHOULD BE MADE,

1 THE EXECUTIVE DIRECTOR SHALL MAKE THE ADJUSTMENT IN A MANNER
2 THAT MAINTAINS AN EQUAL TEMPORARY REFUND FOR EVERY QUALIFIED
3 INDIVIDUAL THAT IS DOUBLED FOR EACH PAIR OF QUALIFIED INDIVIDUALS
4 FILING A JOINT RETURN OR APPLYING JOINTLY FOR A GRANT PURSUANT TO
5 ARTICLE 31 OF THIS TITLE 39. IN ADDITION, THE EXECUTIVE DIRECTOR, IN
6 CONSULTATION WITH LEGISLATIVE COUNCIL STAFF AND THE STATE
7 CONTROLLER, SHALL CALCULATE THE AGGREGATE TEMPORARY REFUND
8 AMOUNT ESTIMATED TO BE ALLOWED TO QUALIFIED INDIVIDUALS
9 DESCRIBED IN SUBSECTION (1)(b)(II) OF THIS SECTION, WHICH AMOUNT
10 MUST BE HELD IN RESERVE TO MAKE REFUNDS TO THOSE QUALIFIED
11 INDIVIDUALS AND SHALL NOT BE REFUNDED PURSUANT TO SECTION
12 39-22-2002.

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

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

24 (b) THE REFUND OF EXCESS STATE REVENUE FROM ALL SOURCES
25 SET FORTH IN THIS SECTION IS SUBJECT TO THE PROVISIONS UNDER SECTION
26 39-21-108 FOR A QUALIFIED INDIVIDUAL TO THE EXTENT OF ANY UNPAID
27 BALANCE OR UNPAID DEBT AS SET FORTH IN SECTION 39-21-108 (3).

1 (c) A TAX PREPARER IS NOT LIABLE IF THE PREPARER IS UNABLE TO
2 FILE A TAXPAYER'S 2021 STATE INCOME TAX RETURN BY JUNE 30, 2022,
3 WHEN A TAXPAYER TIMELY FILED, AND WAS GRANTED, A TAX EXTENSION
4 AS LONG AS THE TAX PREPARER FILES THE TAX RETURN BY OCTOBER 17,
5 2022.

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

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

9 **39-22-605. Failure by individual to pay estimated income tax.**

10 (2) As used in this section, unless the context otherwise requires:

11 (c) "Tax" or "tax liability" means the tax imposed under this
12 article minus the credits against tax provided by this article other than the
13 credits against tax for withholding pursuant to sections 39-22-601 (4),
14 39-22-604, and 39-22-604.5 and THE credits against tax for the sales tax
15 refund pursuant to section 39-22-2003 AND THE REFUND OF EXCESS STATE
16 REVENUES FROM ALL SOURCES PURSUANT TO SECTION 39-22-2004.

17 == ==

18 **SECTION 4. Appropriation.** (1) For the 2022-23 state fiscal
19 year, \$2,504,276 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) \$272,101 for use by the taxation services division for personal
23 services, which amount is based on an assumption that the division will
24 require an additional 3.5 FTE;

25 (b) \$29,525 for use by the taxation services division for operating
26 expenses;

27 (c) \$2,111,100 for the purchase of document management

1 services;

2 (d) \$78,750 for tax administration IT system (GenTax) support;

3 and

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

6 (2) For the 2022-23 state fiscal year, \$2,111,100 is appropriated
7 to the department of personnel. This appropriation is from reappropriated
8 funds received from the department of revenue under subsection (1)(c) of
9 this section. To implement this act, the department of personnel may use
10 this appropriation to provide document management services for the
11 department of revenue.

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