

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

REENGROSSED

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

LLS NO. 20-1268.02 Esther van Mourik x4215

HOUSE BILL 20-1420

HOUSE SPONSORSHIP

Sirota and Gray, Benavidez, Gonzales-Gutierrez, Jaquez Lewis, Kipp, Lontine, Weissman,
Woodrow

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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, 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.

HOUSE
Amended 3rd Reading
June 11, 2020

HOUSE
Amended 2nd Reading
June 10, 2020

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; EXCEPT THAT THIS SUBSECTION
21 (3)(o) DOES NOT APPLY TO A TAXPAYER WHO FILES A SCHEDULE F ON
22 THEIR FEDERAL INCOME TAX RETURN.

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

25 **39-22-304. Net income of corporation - legislative declaration**
26 **- definitions - repeal.** (2) There shall be added to federal taxable income:

27 (i) FOR INCOME TAX YEARS ENDING ON AND AFTER THE

1 ENACTMENT OF THE MARCH 2020 "CORONAVIRUS AID, RELIEF, AND
2 ECONOMIC SECURITY ACT", PUB. L. 116-136, REFERRED TO IN THIS
3 SECTION AS THE "CARES ACT", BUT BEFORE JANUARY 1, 2021, AND FOR
4 INCOME TAX YEARS BEGINNING ON AND AFTER THE ENACTMENT OF THE
5 "CARES ACT", BUT BEFORE JANUARY 1, 2021, AN AMOUNT EQUAL TO THE
6 AMOUNT IN EXCESS OF THE LIMITATION ON BUSINESS INTEREST UNDER
7 SECTION 163 (j) OF THE INTERNAL REVENUE CODE WITHOUT REGARD TO
8 THE AMENDMENTS MADE BY SECTION 2306 OF THE "CARES ACT".

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

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

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

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

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

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

12 **39-22-518. Tax modification for net capital gains - repeal.**

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

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

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

22 **39-26-102. Definitions.** As used in this article 26, unless the
23 context otherwise requires:

24 (21) (a) (I) FOR SALES AND PURCHASES MADE BEFORE JANUARY 1,
25 2023, sales and purchases of electricity, coal, gas, fuel oil, steam, coke,
26 or nuclear fuel, for use in processing, manufacturing, mining, refining,
27 irrigation, construction, telegraph, telephone, and radio communication,

1 street and railroad transportation services, and all industrial uses, and
2 newsprint and printer's ink for use by publishers of newspapers and
3 commercial printers shall be deemed to be wholesale sales and shall be
4 exempt from taxation under this part 1.

5 (II) FOR SALES AND PURCHASES MADE ON AND AFTER JANUARY 1,
6 2023, SALES AND PURCHASES OF NEWSPRINT AND PRINTER'S INK FOR USE
7 BY PUBLISHERS OF NEWSPAPERS AND COMMERCIAL PRINTERS ARE DEEMED
8 TO BE WHOLESALE SALES AND ARE EXEMPT FROM TAXATION UNDER THIS
9 PART 1.

10 (III) SUBSECTION (21)(a)(I) OF THIS SECTION IS REPEALED,
11 EFFECTIVE JANUARY 1, 2028.

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

14 **39-26-705. Miscellaneous use tax exemptions - printers ink**
15 **and newsprint - manufactured goods.** (1) (a) (I) FOR SALES AND
16 PURCHASES MADE BEFORE JANUARY 1, 2023, the storage, use, or
17 consumption of printers ink and newsprint shall be exempt from taxation
18 under the provisions of part 2 of this ~~article~~ ARTICLE 26.

19 (II) THIS SUBSECTION (1)(a) IS REPEALED, EFFECTIVE JANUARY 1,
20 2028.

21 (b) FOR SALES AND PURCHASES MADE AFTER JANUARY 1, 2023,
22 THE STORAGE, USE, OR CONSUMPTION OF NEWSPRINT AND PRINTER'S INK
23 FOR USE BY PUBLISHERS OF NEWSPAPERS AND COMMERCIAL PRINTERS ARE
24 EXEMPT FROM TAXATION UNDER THE PROVISIONS OF PART 2 OF THIS
25 ARTICLE 26.

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

1 **39-26-715. Fuel and oil - definitions - repeal.** (2) The following
2 are exempt from taxation under the provisions of ~~part 2 of this article~~ THIS
3 ARTICLE 26:

4 (b) (I) (A) FOR SALES AND PURCHASES MADE BEFORE JANUARY 1,
5 2023, the storage, use, or consumption of electricity, coal, coke, fuel oil,
6 steam, nuclear fuel, or gas for use in processing, manufacturing, mining,
7 refining, irrigation, building construction, telegraph, telephone, and radio
8 communication, street and railroad transportation services, and all
9 industrial uses.

10 (B) THIS SUBSECTION (2)(b)(I) IS REPEALED, EFFECTIVE JANUARY
11 1, 2028.

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

14 **39-26-730. Refund of state sales and use tax for certain types**
15 **of fuel - application requirements and procedures.** (1) FOR SALES AND
16 PURCHASES MADE ON AND AFTER JANUARY 1, 2023, A PURCHASER IS
17 ALLOWED TO CLAIM A REFUND, NOT TO EXCEED ONE THOUSAND DOLLARS
18 PER MONTH, OF ALL STATE SALES AND USE TAX PAID BY THE PURCHASER,
19 PURSUANT TO PARTS 1 AND 2 OF THIS ARTICLE 26, ON THE SALE, STORAGE,
20 USE, OR CONSUMPTION OF ELECTRICITY, COAL, GAS, FUEL OIL, STEAM,
21 COKE, OR NUCLEAR FUEL, FOR USE IN PROCESSING, MANUFACTURING,
22 MINING, REFINING, IRRIGATION, CONSTRUCTION, TELEGRAPH, TELEPHONE,
23 AND RADIO COMMUNICATION, AND ALL INDUSTRIAL USES; EXCEPT THAT
24 THE ONE THOUSAND DOLLAR PER MONTH LIMIT DOES NOT APPLY TO THE
25 SALE, STORAGE, USE, OR CONSUMPTION OF THE FOLLOWING:

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

1 FUEL PURCHASED FOR AGRICULTURAL PURPOSES;

2 (c) COAL, GAS, FUEL OIL, STEAM, COKE, OR NUCLEAR FUEL FOR USE
3 BY A UTILITY COMPANY TO GENERATE ELECTRICITY FOR RETAIL OR
4 WHOLESALE SALE; AND

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

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

13 (3) NOTHING IN THIS SECTION MAY BE CONSTRUED TO LIMIT THE
14 AVAILABILITY OF ANY OTHER EXEMPTION ALLOWED IN THIS ARTICLE 26.

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

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

1 tax exemption or any other legislative modification of the state sales tax
2 base resulting from the enactment of any of the following bills:

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

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

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

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

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

26 **10-3-209. Tax on premiums collected - exemptions - penalties**
27 **- repeal.** (1) (b) (I) The rate of tax shall be as follows:

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

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

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

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

17 (III) (A) Any company desiring to qualify an office in this state as
18 a home or regional home office shall make application for qualification
19 to the commissioner on forms prescribed by the commissioner and shall
20 submit proof that it is operating a home or a regional home office in this
21 state. Applications for companies that were not approved in the
22 immediate preceding year shall be received by the commissioner by
23 December 31 of the year immediately preceding the year for which the
24 application for qualification is being made. Applications for companies
25 that were approved in the immediate preceding year shall be received by
26 the commissioner by March 1 of the year for which qualification is being
27 made. Applications for companies that were approved in the immediate

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

7 (B) THIS SUBSECTION (1)(b)(III) IS REPEALED, EFFECTIVE MARCH
8 1, 2021.

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

25 (B) FOR PREMIUMS COLLECTED ON AND AFTER MARCH 1, 2020, AN
26 "ANNUITY PLAN" OR AN "ANNUITY CONSIDERATION" DOES NOT INCLUDE
27 A DEPOSIT-TYPE CONTRACT THAT DOES NOT INCORPORATE MORTALITY OR

1 MORBIDITY RISKS, SUCH AS A GUARANTEED INVESTMENT OR INTEREST
2 CERTIFICATE, A SUPPLEMENTARY CONTRACT WITHOUT LIFE
3 CONTINGENCIES, AN ANNUITY CERTAIN, A PREMIUM FUND OR OTHER
4 DEPOSIT FUND, A DIVIDEND ACCUMULATION, A COUPON ACCUMULATION,
5 A LOTTERY PAYOUT, OR A STRUCTURED SETTLEMENT.

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

8 **39-22-123.5. Earned income tax credit - not a refund of excess**
9 **state revenues - trigger - legislative declaration - definition.** (1) The
10 general assembly hereby finds and declares that:

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

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

24 (b) FOR AN INCOME TAX YEAR COMMENCING ON OR AFTER
25 JANUARY 1, 2023, A RESIDENT INDIVIDUAL WHO CLAIMS AN EARNED
26 INCOME TAX CREDIT ON THE INDIVIDUAL'S FEDERAL TAX RETURN IS
27 ALLOWED AN EARNED INCOME TAX CREDIT AGAINST THE TAXES DUE

1 UNDER THIS ARTICLE 22 THAT IS EQUAL TO TWENTY PERCENT OF THE
2 FEDERAL CREDIT THAT THE RESIDENT INDIVIDUAL CLAIMED ON HIS OR HER
3 FEDERAL TAX RETURN FOR THE SAME TAX YEAR.

4 (2.5) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
5 JANUARY 1, 2020, BUT BEFORE JANUARY 1, 2023, A RESIDENT INDIVIDUAL
6 IS ALLOWED AN EARNED INCOME TAX CREDIT AGAINST THE TAXES DUE
7 UNDER THIS ARTICLE 22 THAT IS EQUAL TO TEN PERCENT OF THE FEDERAL
8 CREDIT THAT THE RESIDENT INDIVIDUAL WOULD HAVE BEEN ALLOWED,
9 BUT FOR THE FACT THAT THE RESIDENT INDIVIDUAL, THE RESIDENT
10 INDIVIDUAL'S SPOUSE, OR ONE OR MORE OF THE RESIDENT INDIVIDUAL'S
11 DEPENDENTS DO NOT HAVE A SOCIAL SECURITY NUMBER THAT IS VALID
12 FOR EMPLOYMENT.

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

21 (c) FOR PURPOSES OF THIS SUBSECTION (2.5), A "RESIDENT
22 INDIVIDUAL" INCLUDES A TAXPAYER FILING WITH AN INDIVIDUAL
23 TAXPAYER IDENTIFICATION NUMBER.

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

1 ~~under section 39-22-123.~~

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

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

10 (b) ON MARCH 1, 2022, THE STATE TREASURER SHALL TRANSFER
11 TWO HUNDRED SEVENTY-FIVE MILLION DOLLARS FROM THE GENERAL FUND
12 TO THE STATE EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE
13 IX OF THE STATE CONSTITUTION FOR THE FISCAL YEAR 2022-23.

14 (c) ON MARCH 1, 2023, THE STATE TREASURER SHALL TRANSFER
15 TWO HUNDRED SEVENTY-FIVE MILLION DOLLARS FROM THE GENERAL FUND
16 TO THE STATE EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE
17 IX OF THE STATE CONSTITUTION FOR THE FISCAL YEAR 2023-24.

18 (d) ON MARCH 1, 2024, THE STATE TREASURER SHALL TRANSFER
19 TWO HUNDRED SEVENTY-FIVE MILLION DOLLARS FROM THE GENERAL
20 FUND TO THE STATE EDUCATION FUND CREATED IN SECTION 17 (4) OF
21 ARTICLE IX OF THE STATE CONSTITUTION FOR THE FISCAL YEAR 2024-25.

22 **SECTION 15. Appropriation.** (1) For the 2020-21 state fiscal
23 year, \$702,170 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) \$277,811 for use by the taxation and compliance division for
27 personal services, which amount is based on an assumption that the

1 division will require an additional 4.8 FTE;

2 (b) \$39,778 for use by the taxation and compliance division for
3 operating expenses;

4 (c) \$311,529 for use by the taxpayer service division for personal
5 services, which amount is based on an assumption that the division will
6 require an additional 6.1 FTE;

7 (d) \$50,552 for use by the taxpayer service division for operating
8 expenses; and

9 (e) \$22,500 for tax administration IT system (GenTax) support.

10 **SECTION 16. Effective date.** This act takes effect upon passage;
11 except that section 10-3-209 (1)(b)(II), Colorado Revised Statutes, as
12 repealed in section 12 of this act, takes effect March 1, 2021.

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