

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0600.01 Pierce Lively x2059

HOUSE BILL 22-1125

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A BILL FOR AN ACT

101 **CONCERNING A REQUIREMENT THAT ANY STATE INCOME TAX RATE**
102 **REDUCTION IMPLEMENTED TEMPORARILY IN ORDER TO REFUND**
103 **EXCESS STATE REVENUES REMAIN IN EFFECT PERMANENTLY.**

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>.)

One of the mechanisms for refunding state revenues in excess of the state fiscal year spending limit imposed by the Taxpayer's Bill of Rights (TABOR) is a temporary income tax rate reduction. For any state fiscal year commencing on or after July 1, 2022, the bill makes this income tax rate reduction permanent and establishes the reduction as

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.

always equaling a .05% reduction of the current income tax rate.

Thus, under the bill, every year when the executive director of the department of revenue determines it is necessary to reduce the state income tax, both the individual state income tax rate and the corporate tax rate are permanently reduced by .05%.

The bill exempts the state income tax rate and corporate tax rate reduction in the bill from the otherwise required tax preference performance statement and repeal date.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-22-104, **amend**
3 (1.7)(b); and **add** (1.7)(c) as follows:

4 **39-22-104. Income tax imposed on individuals, estates, and**
5 **trusts - single rate - report - legislative declaration - definitions -**
6 **repeal.** (1.7) (b) Except as otherwise provided in section 39-22-627,
7 subject to subsection (2) of this section, with respect to taxable years
8 commencing on or after January 1, 2020, BUT BEFORE JANUARY 1, 2022,
9 a tax of four and fifty-five one-hundredths percent is imposed on the
10 federal taxable income, as determined pursuant to section 63 of the
11 internal revenue code, of every individual, estate, and trust.

12 (c) SUBJECT TO SUBSECTION (2) OF THIS SECTION, WITH RESPECT
13 TO TAXABLE YEARS COMMENCING ON OR AFTER JANUARY 1, 2022, A TAX
14 OF FOUR AND FIFTY-FIVE ONE-HUNDREDTHS PERCENT IS IMPOSED ON THE
15 FEDERAL TAXABLE INCOME, AS DETERMINED PURSUANT TO SECTION 63 OF
16 THE INTERNAL REVENUE CODE, OF EVERY INDIVIDUAL, ESTATE, AND TRUST
17 UNLESS THE EXECUTIVE DIRECTOR HAS REDUCED THE STATE INCOME TAX
18 RATE PURSUANT TO SECTION 39-22-627 (1.5), IN WHICH CASE A TAX AT
19 THE RATE DETERMINED PURSUANT TO SECTION 39-22-627 (1.5) IS IMPOSED
20 FOR THE INCOME TAX YEAR IN WHICH THE RATE TAKES EFFECT AND ALL
21 SUBSEQUENT INCOME TAX YEARS ON THE FEDERAL TAXABLE INCOME, AS

1 DETERMINED PURSUANT TO SECTION 63 OF THE INTERNAL REVENUE CODE,
2 OF EVERY INDIVIDUAL, ESTATE, AND TRUST. THE RATE REDUCTION SET
3 FORTH IN THIS SUBSECTION (1.7)(c) IS NOT SUBJECT TO THE
4 REQUIREMENTS SET FORTH IN SECTION 39-21-304.

5 **SECTION 2.** In Colorado Revised Statutes, 39-22-301, **amend**
6 (1)(d)(I)(J); and **add** (1)(d)(I)(K) as follows:

7 **39-22-301. Corporate tax imposed.** (1) (d) (I) A tax is imposed
8 upon each domestic C corporation and foreign C corporation doing
9 business in Colorado annually in an amount of the net income of such C
10 corporation during the year derived from sources within Colorado as set
11 forth in the following schedule of rates:

12 (J) Except as otherwise provided in section 39-22-627, for income
13 tax years commencing on or after January 1, 2020, BUT BEFORE JANUARY
14 1, 2022, four and fifty-five one-hundredths percent of the Colorado net
15 income;

16 (K) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
17 1, 2022, A TAX OF FOUR AND FIFTY-FIVE ONE-HUNDREDTHS PERCENT OF
18 THE COLORADO NET INCOME UNLESS THE EXECUTIVE DIRECTOR HAS
19 REDUCED THE STATE INCOME TAX RATE PURSUANT TO SECTION 39-22-627
20 (1.5), IN WHICH CASE A TAX IS IMPOSED AT THE RATE DETERMINED
21 PURSUANT TO SECTION 39-22-627 (1.5) FOR THE INCOME TAX YEAR IN
22 WHICH THE RATE TAKES EFFECT AND ALL FUTURE INCOME TAX YEARS. THE
23 RATE REDUCTION SET FORTH IN THIS SUBSECTION (1)(d)(I)(K) IS NOT
24 SUBJECT TO THE REQUIREMENTS SET FORTH IN SECTION 39-21-304.

25 **SECTION 3.** In Colorado Revised Statutes, 39-22-627, **amend**
26 (1)(a), (2), (3), and (6); and **add** (1.5) as follows:

27 **39-22-627. Adjustment of rate of income tax - refund of excess**

1 **state revenues - authority of executive director.** (1) (a) Subject to the
2 provisions of this section, if, for any state fiscal year commencing on or
3 after July 1, 2010, BUT BEFORE JULY 1, 2022, the amount of state revenues
4 in excess of the limitation on state fiscal year spending imposed by
5 section 20 (7)(a) of article X of the state constitution that are required to
6 be refunded for such state fiscal year exceeds the amount specified in
7 ~~paragraph (b) of this subsection~~ (1) SUBSECTION (1)(b) OF THIS SECTION,
8 the executive director shall temporarily reduce the state income tax rate
9 for the income tax year commencing during the calendar year in which
10 the state fiscal year ended from four and sixty-three one-hundredths
11 percent of the federal taxable income of every individual, estate, trust, and
12 corporation, as specified in sections 39-22-104 (1.7) and 39-22-301
13 (1)(d)(I)(I), to four and one-half percent of the federal taxable income of
14 every individual, estate, trust, and corporation to refund excess state
15 revenues that are required to be refunded pursuant to section 20 (7)(d) of
16 article X of the state constitution.

17 (1.5) (a) SUBJECT TO THE PROVISIONS OF THIS SECTION, IF, FOR
18 ANY STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2022, THE
19 AMOUNT OF STATE REVENUES IN EXCESS OF THE LIMITATION ON STATE
20 FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7)(a) OF ARTICLE X OF
21 THE STATE CONSTITUTION THAT ARE REQUIRED TO BE REFUNDED FOR THE
22 STATE FISCAL YEAR EXCEEDS THE AMOUNT SPECIFIED IN SUBSECTION
23 (1.5)(b) OF THIS SECTION, THE EXECUTIVE DIRECTOR SHALL REDUCE THE
24 STATE INCOME TAX RATE OF EVERY INDIVIDUAL, ESTATE, TRUST, AND
25 CORPORATION AS SPECIFIED IN OR DETERMINED PURSUANT TO SECTIONS
26 39-22-104(1.7) AND 39-22-301 (1)(d)(I)(K) BY FIVE HUNDREDTHS OF ONE
27 PERCENT FOR THE INCOME TAX YEAR COMMENCING DURING THE

1 CALENDAR YEAR IN WHICH THE STATE FISCAL YEAR ENDED TO REFUND
2 EXCESS STATE REVENUES THAT ARE REQUIRED TO BE REFUNDED
3 PURSUANT TO SECTION 20 (7)(d) OF ARTICLE X OF THE STATE
4 CONSTITUTION.

5 (b) IN ORDER FOR SUBSECTION (1.5)(a) OF THIS SECTION TO TAKE
6 EFFECT, THE AMOUNT OF STATE REVENUES REQUIRED TO BE REFUNDED
7 FOR THE SPECIFIED STATE FISCAL YEAR MUST EXCEED THE TOTAL OF THE
8 AMOUNT OF REIMBURSEMENT FOR PROPERTY TAX REVENUES LOST AS A
9 RESULT OF THE PROPERTY TAX EXEMPTIONS ALLOWED BY PART 2 OF
10 ARTICLE 3 OF THIS TITLE 39 PAID BY THE STATE TREASURER TO EACH
11 COUNTY TREASURER AS REQUIRED BY SECTION 39-3-207 (4) FOR THE
12 PROPERTY TAX YEAR THAT COMMENCED DURING THE SPECIFIED STATE
13 FISCAL YEAR PLUS THE ESTIMATED AMOUNT BY WHICH STATE REVENUES
14 WOULD BE DECREASED AS THE RESULT OF A REDUCTION IN THE STATE
15 INCOME TAX RATE BY FIVE HUNDREDTHS OF ONE PERCENT, AS
16 DETERMINED PURSUANT TO THIS SECTION.

17 (c) THE RATE REDUCTION SET FORTH IN THIS SUBSECTION (1.5) IS
18 NOT SUBJECT TO THE REQUIREMENTS SET FORTH IN SECTION 39-21-304.

19 (2) Except as otherwise provided in subsection (3) of this section,
20 no later than October 1, 2011, and no later than each October 1 thereafter
21 of any calendar year during which it is certified in accordance with ~~the~~
22 ~~provisions of~~ section 24-77-106.5, ~~C.R.S.~~, that state revenues exceed the
23 limitation on state fiscal year spending imposed by section 20 (7)(a) of
24 article X of the state constitution for the state fiscal year ending in that
25 calendar year and exceed any amount that the voters statewide have
26 authorized the state to retain and spend for the state fiscal year ending in
27 that calendar year, the executive director shall estimate the amount by

1 which state revenues would be decreased as the result of a reduction in
2 the state income tax rate ~~from four and sixty-three one-hundredths percent~~
3 ~~to four and one-half percent of federal taxable income~~ OF FIVE
4 HUNDREDTHS OF ONE PERCENT for the income tax year commencing
5 during the calendar year in which the state fiscal year ended.

6 (3) If one or more ballot questions are submitted to the voters at
7 a statewide election to be held in November of any given calendar year
8 that seek authorization for the state to retain and spend all or any portion
9 of the amount of excess state revenues for the state fiscal year ending
10 during said calendar year, the executive director shall not reduce the state
11 income tax rate until the results of said election are known so that the
12 state income tax rate may be reduced only if, after the results of said
13 election, the amount of excess state revenues required to be refunded for
14 the state fiscal year exceeds the total of the amount of reimbursement for
15 property tax revenues lost as a result of the property tax exemptions
16 allowed by part 2 of article 3 of this title 39 paid by the state treasurer to
17 each county treasurer as required by section 39-3-207 (4) for the property
18 tax year that commenced during the specified state fiscal year plus the
19 estimated amount by which state revenues would be decreased as a result
20 of a reduction in the state income tax rate ~~from four and sixty-three~~
21 ~~one-hundredths percent to four and one-half percent of federal taxable~~
22 ~~income pursuant to this section~~ OF FIVE HUNDREDTHS OF ONE PERCENT.

23 (6) If, based on the financial report prepared by the controller in
24 accordance with section 24-77-106.5, the controller certifies that the
25 amount of the state revenues for any state fiscal year commencing on or
26 after July 1, 2017, exceeds the limitation on state fiscal year spending
27 imposed by section 20 (7)(a) of article X of the state constitution for that

1 state fiscal year and exceeds the amount of excess state revenues that the
2 voters statewide have authorized the state to retain and spend for that
3 state fiscal year by less than the total of the amount of reimbursement for
4 property tax revenues lost as a result of the property tax exemptions
5 allowed by part 2 of article 3 of this title 39 paid by the state treasurer to
6 each county treasurer as required by section 39-3-207 (4) for the property
7 tax year that commenced during the specified state fiscal year plus the
8 estimated amount by which state revenues would be decreased as the
9 result of a reduction in the state income tax rate ~~from four and sixty-three~~
10 ~~one-hundredths percent to four and one-half percent of federal taxable~~
11 ~~income as calculated by the executive director pursuant to subsection (2)~~
12 ~~of this section~~ OF FIVE HUNDREDTHS OF ONE PERCENT, then the reduction
13 in the state income tax rate allowed pursuant to ~~subsection~~ SUBSECTIONS
14 (1) AND (1.5) of this section shall not be allowed for the income tax year
15 commencing during the calendar year in which the state fiscal year ended.

16 **SECTION 4.** In Colorado Revised Statutes, 39-21-304, **amend**
17 (1)(a) and (4) as follows:

18 **39-21-304. Tax expenditure - tax preference performance**
19 **statement - tax expenditure repeal requirement.** (1) (a) On and after
20 January 1, 2021, EXCEPT AS OTHERWISE PROVIDED IN SECTIONS 39-22-104
21 (1.7)(c), 39-22-301 (1)(d)(I)(K), AND 39-22-627 (1.5)(c), any bill that
22 creates a new tax expenditure or extends an expiring tax expenditure must
23 include a tax preference performance statement as part of a statutory
24 legislative declaration.

25 (4) On and after January 1, 2021, EXCEPT AS OTHERWISE
26 PROVIDED IN SECTIONS 39-22-104 (1.7)(c), 39-22-301 (1)(d)(I)(K), AND
27 39-22-627 (1.5)(c), any bill that creates a new tax expenditure must

1 include a repeal of the expenditure after a specified period of tax years
2 and any bill that extends an expiring tax expenditure must extend the
3 expenditure for a specified period of tax years. A bill that creates a new
4 tax expenditure or extends an expiring tax expenditure may not establish
5 the tax expenditure for an indefinite period of time.

6 **SECTION 5. Act subject to petition - effective date.** This act
7 takes effect at 12:01 a.m. on the day following the expiration of the
8 ninety-day period after final adjournment of the general assembly; except
9 that, if a referendum petition is filed pursuant to section 1 (3) of article V
10 of the state constitution against this act or an item, section, or part of this
11 act within such period, then the act, item, section, or part will not take
12 effect unless approved by the people at the general election to be held in
13 November 2022 and, in such case, will take effect on the date of the
14 official declaration of the vote thereon by the governor.