

**First Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO**

**REREVISED**

*This Version Includes All Amendments  
Adopted in the Second House*

LLS NO. 21-0476.01 Esther van Mourik x4215

**HOUSE BILL 21-1311**

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**House Committees**

Finance  
Appropriations

**Senate Committees**

Finance  
Appropriations

SENATE  
Amended 3rd Reading  
June 3, 2021

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**A BILL FOR AN ACT**

101       **CONCERNING INCOME TAX, AND, IN CONNECTION THEREWITH, ■■■■**  
102               **REQUIRING ADDITIONS TO COLORADO TAXABLE INCOME IN**  
103               **AMOUNTS RELATED TO LIMITING CERTAIN FEDERAL ITEMIZED**  
104               **DEDUCTIONS, EXTENDING THE LIMIT ON THE FEDERAL**  
105               **DEDUCTION ALLOWED UNDER SECTION 199A OF THE INTERNAL**  
106               **REVENUE CODE, LIMITING THE DEDUCTION FOR CONTRIBUTIONS**  
107               **MADE TO 529 PLANS, DISALLOWING AN ENHANCED FEDERAL**  
108               **DEDUCTION FOR FOOD AND BEVERAGE EXPENSES AT**  
109               **RESTAURANTS, AND LIMITING THE CAPITAL GAINS**  
110               **SUBTRACTION; ALLOWING A SUBTRACTION FROM COLORADO**  
111               **TAXABLE INCOME IN AMOUNTS RELATED TO REPEALING THE CAP**  
112               **ON THE DEDUCTION FOR CERTAIN SOCIAL SECURITY INCOME;**  
113               **REDUCING STATE INCOME TAX REVENUE BY INCREASING THE**

SENATE  
Amended 2nd Reading  
June 2, 2021

HOUSE  
Amended 3rd Reading  
May 25, 2021

HOUSE  
Amended 2nd Reading  
May 22, 2021

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.*

101 EARNED INCOME TAX CREDIT, FUNDING THE CHILD TAX CREDIT,  
102 AND ALLOWING A TEMPORARY INCOME TAX CREDIT FOR A  
103 BUSINESS EQUAL TO A PERCENTAGE OF THE CONVERSION COSTS  
104 TO CONVERT THE BUSINESS TO A WORKER-OWNED COOP, AN  
105 EMPLOYEE STOCK OWNERSHIP PLAN, OR AN EMPLOYEE  
106 OWNERSHIP TRUST; INCREASING STATE INCOME TAX REVENUE  
107 BY MODIFYING THE COMPUTATION OF THE CORPORATE INCOME  
108 TAX RECEIPTS FACTOR TO MAKE IT MORE CONGRUENT WITH  
109 COMBINED REPORTING; PREVENTING CORPORATIONS FROM  
110 USING TAX SHELTERS IN FOREIGN JURISDICTIONS FOR THE  
111 PURPOSE OF TAX AVOIDANCE; CLARIFYING THAT CERTAIN  
112 CAPTIVE INSURANCE COMPANIES ARE NOT EXEMPT FROM  
113 INCOME TAX; AND MAKING AN APPROPRIATION.

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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 2** of the bill modifies how taxable income is determined for individuals for purposes of the state income tax. Specifically, it:

- Imposes a cap for taxpayers with adjusted gross incomes equal to or exceeding \$400,000 on certain itemized deductions claimed under the internal revenue code;
- Repeals, for social security income that is included in federal taxable income only, the cap on the deduction for pension and annuity income received;
- Adds a cap, per taxpayer per beneficiary, on the deduction for contributions made to 529 plans;
- Requires individual taxpayers to add amounts of federal taxable income that are equal to the enhanced federal deductions for food and beverage in a restaurant for the 2022 income year; and
- Extends the limit on the federal deduction allowed under section 199A of the internal revenue code.

**Section 3** increases the earned income tax credit to 20% for income tax years commencing on or after January 1, 2022, and applies the

lowered minimum age for individuals without a qualifying child in the federal "American Rescue Plan Act of 2021" to the state credit for income tax years commencing on or after January 1, 2022.

**Section 4** funds the child tax credit for income tax years commencing on or after January 1, 2022, and allows a child tax credit in the state regardless of the federal requirement that a qualifying child must have a social security number for the federal child tax credit. Section 4 also specifies that if the changes to the federal child tax credit in the "American Rescue Plan Act of 2021" are no longer in effect, the percentages of the state child tax credit are increased.

**Sections 5 through 7** make the state's corporate income tax more uniform compared to other states by replacing the current combined reporting standard with the multistate tax commission's standard. In addition, these sections modify the computation of the receipts factor to make it more congruent with the unitary business principle.

In addition to making the state's corporate income tax more uniform compared to other states, **section 6** also prevents corporations from using tax shelters in foreign jurisdictions for the purpose of tax avoidance.

**Section 7** also modifies how taxable income is determined for C corporations for purposes of the state income tax. Specifically, it requires corporate taxpayers to add amounts of federal taxable income that are equal to the enhanced federal deductions for food and beverage in a restaurant for the 2022 income year.

**Section 8** repeals a state subtraction for certain capital gains incurred.

**Section 9** creates a temporary income tax credit for a business for a percentage of the conversion costs to convert the business to a worker-owned coop, an employee stock ownership plan, or an employee ownership trust.

**Sections 10 through 13** address the avoidance of income tax by certain captive insurance companies.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 hereby finds and declares that:

4 (a) This act makes certain changes to the state's income tax code  
5 that over the span of several years are revenue neutral; and

6 (b) The purposes of this act are:

7 (I) To conform Colorado's tax code with provisions commonly

1 used in other states, so that Colorado is less of an outlier around the  
2 country in how taxpayers compute their taxes owed;

3 (II) To reduce tax avoidance by updating provisions of Colorado's  
4 tax code concerning certain business structures; and

5 (III) To adjust the availability of certain tax expenditures so that  
6 the availability and extent of tax expenditures are more fairly distributed  
7 across all taxpayers.

8 **SECTION 2. In Colorado Revised Statutes, 39-21-103, add (1.5)**  
9 **as follows:**

10 **39-21-103. Hearings. (1.5) (a) (I) NO LATER THAN DECEMBER 15,**  
11 **2021, COLLEGEINVEST SHALL PROVIDE THE DEPARTMENT WITH A SECURE**  
12 **ELECTRONIC REPORT CONTAINING THE NAME AND SOCIAL SECURITY**  
13 **NUMBER, AND THE AMOUNT OF THE DISTRIBUTION, OF EACH ACCOUNT**  
14 **HOLDER OF A COLLEGEINVEST ACCOUNT WHO IS ALSO A COLORADO**  
15 **TAXPAYER MAKING A DISTRIBUTION IN THE REPORTING TAX YEARS**  
16 **COMMENCING ON OR AFTER JANUARY 1, 2017, BUT BEFORE JANUARY 1,**  
17 **2021.**

18 **(II) THE DEPARTMENT SHALL EXAMINE A RISK-BASED SAMPLE OF**  
19 **THE INFORMATION PROVIDED BY COLLEGEINVEST UNDER SUBSECTION**  
20 **(1.5)(a)(I) OF THIS SECTION TO SUBSTANTIATE THAT ANY DISTRIBUTION**  
21 **FROM A COLLEGEINVEST ACCOUNT WAS MADE FOR THE REASONS SPECIFIED**  
22 **IN SECTION 39-22-104 (4)(i)(III), AND SHALL DETERMINE THE CORRECT**  
23 **AMOUNT OF TAX FOR ANY TAXPAYER THAT MADE UNQUALIFIED**  
24 **DISTRIBUTIONS. IF THE TAX THAT IS FOUND DUE IS GREATER THAN THE**  
25 **AMOUNT ASSESSED OR PAID, THE DEPARTMENT SHALL NOTIFY THE**  
26 **TAXPAYER AS SET FORTH IN SUBSECTION (1) OF THIS SECTION.**

27 **(b) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY**

1 1, 2021, THE EXECUTIVE DIRECTOR SHALL REGULARLY EXAMINE A  
2 RISK-BASED SAMPLE OF THE INFORMATION PROVIDED BY COLLEGEINVEST  
3 UNDER SECTION 39-22-104 (4)(i)(V) TO SUBSTANTIATE THAT ANY  
4 DISTRIBUTION FROM A COLLEGEINVEST ACCOUNT WAS MADE FOR THE  
5 REASONS SPECIFIED IN SECTION 39-22-104 (4)(i)(III), AND SHALL  
6 DETERMINE THE CORRECT AMOUNT OF TAX FOR ANY TAXPAYER THAT  
7 MADE UNQUALIFIED DISTRIBUTIONS. IF THE TAX THAT IS FOUND DUE IS  
8 GREATER THAN THE AMOUNT ASSESSED OR PAID, THE DEPARTMENT SHALL  
9 NOTIFY THE TAXPAYER AS SET FORTH IN SUBSECTION (1) OF THIS SECTION.

10 (c) THE EXECUTIVE DIRECTOR SHALL PROVIDE A REPORT OF THE  
11 EXAMINATIONS REQUIRED UNDER SUBSECTIONS (1.5)(a) AND (1.5)(b) OF  
12 THIS SECTION, CONSISTENT WITH SECTION 39-21-113 (5), AS PART OF THE  
13 DEPARTMENT'S PRESENTATION TO ITS COMMITTEE OF REFERENCE AT A  
14 HEARING HELD PURSUANT TO SECTION 2-7-203 (2)(a) OF THE "STATE  
15 MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT  
16 (SMART) GOVERNMENT ACT".

17 **SECTION 3.** In Colorado Revised Statutes, 39-22-104, **amend**  
18 (3)(o), (4)(f)(III), (4)(i)(II), and (4)(i)(III); and **add** (3)(p), (3)(q), and  
19 (4)(i)(V) as follows:

20 **39-22-104. Income tax imposed on individuals, estates, and**  
21 **trusts - single rate - report - legislative declaration - definitions -**  
22 **repeal.** (3) There shall be added to the federal taxable income:

23 (o) For income tax years commencing on or after January 1, 2021,  
24 but before ~~January 1, 2023~~, JANUARY 1, 2026, an amount equal to the  
25 deduction allowed under section 199A of the internal revenue code for a  
26 taxpayer who files a single return and whose adjusted gross income is  
27 greater than five hundred thousand dollars, and for taxpayers who file a

1 joint return and whose adjusted gross income is greater than one million  
2 dollars; except that this subsection (3)(o) does not apply to a taxpayer  
3 who files IS REQUIRED TO FILE a schedule F, profit or loss from farming,  
4 or successor form, as an attachment to a federal income tax return FOR  
5 THE TAX YEAR IN WHICH THE TAXPAYER CLAIMS THE DEDUCTION  
6 ALLOWED UNDER SECTION 199A OF THE INTERNAL REVENUE CODE.

7 (p) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY  
8 1, 2022, FOR TAXPAYERS WHO CLAIM ITEMIZED DEDUCTIONS AS DEFINED  
9 IN SECTION 63 (d) OF THE INTERNAL REVENUE CODE AND WHO HAVE  
10 FEDERAL ADJUSTED GROSS INCOME IN THE INCOME TAX YEAR EQUAL TO OR  
11 EXCEEDING FOUR HUNDRED THOUSAND DOLLARS:

12 (I) FOR A TAXPAYER WHO FILES A SINGLE RETURN, THE AMOUNT  
13 BY WHICH THE ITEMIZED DEDUCTIONS DEDUCTED FROM GROSS INCOME  
14 UNDER SECTION 63 (a) OF THE INTERNAL REVENUE CODE EXCEED THIRTY  
15 THOUSAND DOLLARS; AND

16 (II) FOR TAXPAYERS WHO FILE A JOINT RETURN, THE AMOUNT BY  
17 WHICH THE ITEMIZED DEDUCTIONS DEDUCTED FROM GROSS INCOME UNDER  
18 SECTION 63 (a) OF THE INTERNAL REVENUE CODE EXCEED SIXTY  
19 THOUSAND DOLLARS.

20 (q) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER  
21 JANUARY 1, 2022, BUT BEFORE JANUARY 1, 2023, AN AMOUNT EQUAL TO  
22 A FEDERAL DEDUCTION CLAIMED FOR THE INCOME TAX YEAR FOR A FOOD  
23 AND BEVERAGE EXPENSE THAT EXCEEDS FIFTY PERCENT OF THE AMOUNT  
24 OF THE EXPENSE AND THAT WAS ALLOWED UNDER SECTION 274 (n)(2)(D)  
25 OF THE INTERNAL REVENUE CODE.

26 (II) THIS SUBSECTION (3)(q) IS REPEALED, EFFECTIVE DECEMBER  
27 31, 2030.

1 (4) There shall be subtracted from federal taxable income:

2 ~~(f) (III) (A) For income tax years commencing on or after January~~  
3 ~~1, 1989, EXCEPT AS PROVIDED IN SUBSECTION (4)(f)(III)(B) OF THIS~~  
4 ~~SECTION, amounts subtracted under this paragraph (f) shall not exceed~~  
5 ~~SUBSECTION (4)(f) ARE CAPPED AT twenty thousand dollars per tax year.~~

6 ~~(B) except that, for income tax years commencing on or after~~  
7 ~~January 1, 2000, Amounts subtracted under subparagraph (I) of this~~  
8 ~~paragraph (f) shall not exceed THIS SUBSECTION (4)(f) ARE CAPPED AT~~  
9 ~~twenty-four thousand dollars per tax year for any individual who is~~  
10 ~~sixty-five years of age or older at the close of the taxable year. FOR~~  
11 ~~INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2022, THE~~  
12 ~~CAP SET FORTH IN THIS SUBSECTION (4)(f)(III)(B) IS CALCULATED BY FIRST~~  
13 ~~CONSIDERING THE TOTAL SOCIAL SECURITY BENEFITS A TAXPAYER~~  
14 ~~RECEIVED THAT WERE INCLUDED IN FEDERAL TAXABLE INCOME AT THE~~  
15 ~~CLOSE OF THE TAXABLE YEAR AND ONLY IF THE TOTAL SOCIAL SECURITY~~  
16 ~~BENEFITS RECEIVED THAT YEAR WERE INCLUDED IN FEDERAL TAXABLE~~  
17 ~~INCOME AT THE CLOSE OF THE TAXABLE YEAR EXCEED THE CAP SET FORTH~~  
18 ~~IN THIS SUBSECTION (4)(f)(III)(B), THEN THE CAP IS INCREASED TO AN~~  
19 ~~AMOUNT EQUAL TO THE SOCIAL SECURITY BENEFITS RECEIVED BY THE~~  
20 ~~TAXPAYER THAT WERE INCLUDED IN FEDERAL TAXABLE INCOME AT THE~~  
21 ~~CLOSE OF THE TAXABLE YEAR.~~

22 ~~(C) For the purpose of determining the exclusion SUBTRACTION~~  
23 ~~allowed by this paragraph (f) SUBSECTION (4)(f), in the case of a joint~~  
24 ~~return, social security benefits included in federal taxable income shall be~~  
25 ~~apportioned in a ratio of the gross social security benefits of each~~  
26 ~~taxpayer to the total gross social security benefits of both taxpayers.~~

27 ~~(D) For the purposes of this paragraph (f) AS USED IN THIS~~

1 SUBSECTION (4)(f), "pensions and annuities" means retirement benefits  
2 that are periodic payments attributable to personal services performed by  
3 an individual prior to his or her retirement from employment and that  
4 arise from an employer-employee relationship, from service in the  
5 uniformed services of the United States, or from contributions to a  
6 retirement plan ~~which~~ THAT are deductible for federal income tax  
7 purposes. "Pensions and annuities" includes distributions from individual  
8 retirement arrangements and self-employed retirement accounts to the  
9 extent that such distributions are not deemed to be premature distributions  
10 for federal income tax purposes, amounts received from fully matured  
11 privately purchased annuities, social security benefits, and amounts paid  
12 from any such sources by reason of permanent disability or death of the  
13 person entitled to receive the benefits.

14 (i) (II) (A) For income tax years commencing on or after January  
15 1, 2001, BUT BEFORE JANUARY 1, 2022, an amount equal to all payments  
16 or contributions made during the taxable year under an advance payment  
17 contract, to a savings trust account, or otherwise in connection with a  
18 qualified state tuition program established by collegeinvest created in  
19 section 23-3.1-203, ~~C.R.S.~~, or to a qualified state tuition program that is  
20 affiliated with an educational institution in the state and that is established  
21 and maintained pursuant to section 529 of the internal revenue code or  
22 any successor section.

23 (B) ~~EXCEPT AS PROVIDED IN SUBSECTION (4)(i)(II)(C) OF THIS~~  
24 ~~SECTION, FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY~~  
25 ~~1, 2022, AN AMOUNT EQUAL TO ALL PAYMENTS OR CONTRIBUTIONS, NOT~~  
26 ~~TO EXCEED TWENTY THOUSAND DOLLARS PER TAXPAYER PER BENEFICIARY~~  
27 ~~FOR A TAXPAYER WHO FILES A SINGLE RETURN, OR THIRTY THOUSAND~~



1 DOLLARS PER TAXPAYER PER BENEFICIARY FOR TAXPAYERS WHO FILE A  
2 JOINT RETURN, ■ ■ MADE DURING THE TAXABLE YEAR UNDER AN  
3 ADVANCE PAYMENT CONTRACT, TO A SAVINGS TRUST ACCOUNT, OR  
4 OTHERWISE IN CONNECTION WITH A QUALIFIED STATE TUITION PROGRAM  
5 ESTABLISHED BY COLLEGEINVEST CREATED IN SECTION 23-3.1-203, OR TO  
6 A QUALIFIED STATE TUITION PROGRAM THAT IS AFFILIATED WITH AN  
7 EDUCATIONAL INSTITUTION IN THE STATE AND THAT IS ESTABLISHED AND  
8 MAINTAINED PURSUANT TO SECTION 529 OF THE INTERNAL REVENUE CODE  
9 OR ANY SUCCESSOR SECTION. NOTWITHSTANDING SUBSECTION  
10 (4)(i)(III)(D) OF THIS SECTION, COLLEGEINVEST MAY TREAT A CHANGE IN  
11 BENEFICIARY AS A NONQUALIFYING DISTRIBUTION IF THE CHANGE WAS  
12 MADE FOR THE PURPOSE OF EVADING THE LIMIT IN THIS SUBSECTION  
13 (4)(i)(II)(B).

14 (C) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY  
15 1, 2023, THE LIMITS SPECIFIED IN SUBSECTION (4)(i)(II)(B) OF THIS  
16 SECTION ARE ANNUALLY ADJUSTED BY THE PERCENTAGE CHANGE IN THE  
17 COMBINED AVERAGE ANNUAL COSTS OF TUITION AND ROOM AND BOARD  
18 FOR ALL STATE INSTITUTIONS OF HIGHER EDUCATION, AS DEFINED IN  
19 SECTION 24-30-1301 (18). THE DEPARTMENT OF HIGHER EDUCATION  
20 SHALL ANNUALLY CALCULATE THE PERCENTAGE CHANGE DESCRIBED IN  
21 THIS SUBSECTION (4)(i)(II)(C) AND SHALL PROVIDE THE CALCULATION TO  
22 THE DEPARTMENT OF REVENUE BY A DEADLINE DETERMINED BY THE  
23 DEPARTMENT OF REVENUE. THE DEPARTMENT OF REVENUE MAY ROUND  
24 THE ADJUSTED LIMITS TO THE NEAREST HUNDRED DOLLARS.

25 (III) No ~~exclusion shall be~~ SUBTRACTION IS allowed pursuant to  
26 this ~~paragraph (i)~~ SUBSECTION (4)(i) to the extent that such payments or  
27 contributions are excluded from the taxpayer's federal taxable income for

1 the taxable year. Any ~~exclusion~~ SUBTRACTION taken under this ~~paragraph~~  
2 ~~(i) shall be subject to recapture~~ SUBSECTION (4)(i) IS ADDED TO THE  
3 ACCOUNT HOLDER'S TAXABLE INCOME in the taxable year or years in  
4 which any distribution, refund, or any other withdrawal is made pursuant  
5 to an advance payment contract, from a savings trust account, or  
6 otherwise in connection with a qualified state tuition program for any  
7 reason other than:

8 (A) To pay qualified higher education expenses;

9 (B) As a result of the beneficiary's death or disability; ~~or~~

10 (C) As a result of receiving a scholarship and as long as the  
11 aggregate amount of distributions, refunds, or withdrawals made pursuant  
12 to this ~~sub-subparagraph (C)~~ SUBSECTION (4)(i)(III)(C) do not exceed the  
13 amount of the scholarship provided during such tax year; OR

14 (D) AS A RESULT OF A CHANGE IN DESIGNATED BENEFICIARY, IF  
15 THE CHANGE COMPLIES WITH SECTION 529 (c)(3)(C)(ii) OF THE INTERNAL  
16 REVENUE CODE.

17 (V) BEGINNING JANUARY 1, 2022, AND ANNUALLY THEREAFTER,  
18 COLLEGEINVEST SHALL PROVIDE THE DEPARTMENT WITH A SECURE  
19 ELECTRONIC REPORT CONTAINING INFORMATION FOR THE 529 QUALIFIED  
20 STATE TUITION PROGRAM'S ACCOUNT OWNERS AND THIRD-PARTY  
21 CONTRIBUTORS NECESSARY FOR THE ADMINISTRATION OF THE DEDUCTION  
22 ALLOWED IN THIS SECTION. THE REPORT MUST INCLUDE:

23 (A) THE NAME AND SOCIAL SECURITY NUMBER, AND THE  
24 CONTRIBUTION AMOUNT, OF ALL COLORADO TAXPAYERS MAKING A  
25 CONTRIBUTION TO A COLLEGEINVEST ACCOUNT IN THE REPORTING TAX  
26 YEAR COMMENCING ON OR AFTER JANUARY 1, 2021;

27 (B) THE NAME AND SOCIAL SECURITY NUMBER, AND THE

1 CONTRIBUTION AMOUNT, OF ANY OTHER COLORADO TAXPAYER MAKING  
2 A CONTRIBUTION TO A COLLEGEINVEST ACCOUNT IN THE REPORTING TAX  
3 YEAR COMMENCING ON OR AFTER JANUARY 1, 2021, WHO INTENDS TO  
4 PARTICIPATE IN THE DEDUCTION ALLOWED IN THIS SECTION; AND

5 (C) THE NAME AND SOCIAL SECURITY NUMBER, AND THE       
6 DISTRIBUTION AMOUNT, OF EACH ACCOUNT HOLDER OF A COLLEGEINVEST  
7 ACCOUNT WHO IS ALSO A COLORADO TAXPAYER MAKING A DISTRIBUTION  
8 IN THE REPORTING TAX YEAR COMMENCING ON OR AFTER JANUARY 1,  
9 2021, AND THE REASON, IF ANY, FOR THE      DISTRIBUTION.

10 **SECTION 4.** In Colorado Revised Statutes, 39-22-123.5, **amend**  
11 (2)(b) and (2.5)(b); and **add** (2)(c), (2.5)(d), and (2.7) as follows:

12 **39-22-123.5. Earned income tax credit - not a refund of excess**  
13 **state revenues - trigger - legislative declaration - repeal.** (2) (b) For  
14 **an income tax year YEARS** commencing on or after January 1, 2022, BUT  
15 **BEFORE JANUARY 1, 2023, AND INCOME TAX YEARS COMMENCING ON OR**  
16 **AFTER JANUARY 1, 2026, a resident individual** who claims an earned  
17 income tax credit on the individual's federal tax return is allowed an  
18 earned income tax credit against the taxes due under this article 22 that  
19 is equal to ~~fifteen~~ TWENTY percent of the federal credit that the resident  
20 individual claimed on his or her federal tax return for the same tax year.

21 (c) (I) **FOR INCOME TAX YEARS COMMENCING ON OR AFTER**  
22 **JANUARY 1, 2023, BUT BEFORE JANUARY 1, 2026, A RESIDENT INDIVIDUAL**  
23 **WHO CLAIMS AN EARNED INCOME TAX CREDIT ON THE INDIVIDUAL'S**  
24 **FEDERAL TAX RETURN IS ALLOWED AN EARNED INCOME TAX CREDIT**  
25 **AGAINST THE TAXES DUE UNDER THIS ARTICLE 22 THAT IS EQUAL TO**  
26 **TWENTY-FIVE PERCENT OF THE FEDERAL CREDIT THAT THE RESIDENT**  
27 **INDIVIDUAL CLAIMED ON HIS OR HER FEDERAL TAX RETURN FOR THE SAME**

1 TAX YEAR.

2 (II) THIS SUBSECTION (2)(c) IS REPEALED, EFFECTIVE DECEMBER  
3 31, 2034.

4 (2.5) (b) For income tax years commencing on or after January 1,  
5 2022, BUT BEFORE JANUARY 1, 2023, AND INCOME TAX YEARS  
6 COMMENCING ON OR AFTER JANUARY 1, 2026, a resident individual is  
7 allowed an earned income tax credit against the taxes due under this  
8 article 22 that is equal to ~~fifteen~~ TWENTY percent of the federal credit that  
9 the taxpayer RESIDENT INDIVIDUAL would have been allowed, but for the  
10 fact that the resident individual, the resident individual's spouse, or one  
11 or more of the resident individual's dependents do not have a social  
12 security number that is valid for employment.

13 (d) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER  
14 JANUARY 1, 2023, BUT BEFORE JANUARY 1, 2026, A RESIDENT INDIVIDUAL  
15 IS ALLOWED AN EARNED INCOME TAX CREDIT AGAINST THE TAXES DUE  
16 UNDER THIS ARTICLE 22 THAT IS EQUAL TO TWENTY-FIVE PERCENT OF THE  
17 FEDERAL CREDIT THAT THE RESIDENT INDIVIDUAL WOULD HAVE BEEN  
18 ALLOWED, BUT FOR THE FACT THAT THE RESIDENT INDIVIDUAL, THE  
19 RESIDENT INDIVIDUAL'S SPOUSE, OR ONE OR MORE OF THE RESIDENT  
20 INDIVIDUAL'S DEPENDENTS DO NOT HAVE A SOCIAL SECURITY NUMBER  
21 THAT IS VALID FOR EMPLOYMENT.

22 (II) THIS SUBSECTION (2.5)(d) IS REPEALED, EFFECTIVE DECEMBER  
23 31, 2034.

24 (2.7) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER  
25 JANUARY 1, 2022, BUT BEFORE JANUARY 1, 2023, AND INCOME TAX YEARS  
26 COMMENCING ON OR AFTER JANUARY 1, 2026, A RESIDENT INDIVIDUAL 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 WOULD HAVE BEEN  
3 ALLOWED UNDER SECTION 32 (n)(1) OF THE INTERNAL REVENUE CODE,  
4 NOTWITHSTANDING THE DATE LIMITATION SET FORTH IN SECTION 32 (n) OF  
5 THE INTERNAL REVENUE CODE AS SPECIFIED IN SECTION 9621 (a) OF THE  
6 "AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 117-2.

7 (b) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER  
8 JANUARY 1, 2023, BUT BEFORE JANUARY 1, 2026, A RESIDENT INDIVIDUAL  
9 IS ALLOWED AN EARNED INCOME TAX CREDIT AGAINST THE TAXES DUE  
10 UNDER THIS ARTICLE 22 THAT IS EQUAL TO TWENTY-FIVE PERCENT OF THE  
11 FEDERAL CREDIT THAT THE RESIDENT INDIVIDUAL WOULD HAVE BEEN  
12 ALLOWED UNDER SECTION 32 (n)(1) OF THE INTERNAL REVENUE CODE,  
13 NOTWITHSTANDING THE DATE LIMITATION SET FORTH IN SECTION 32 (n)  
14 OF THE INTERNAL REVENUE CODE AS SPECIFIED IN SECTION 9621 (a) OF  
15 THE "AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 117-2.

16 (II) THIS SUBSECTION (2.7)(b) IS REPEALED, EFFECTIVE DECEMBER  
17 31, 2034.

18 **SECTION 5.** In Colorado Revised Statutes, 39-22-129, **amend**  
19 (3)(a) and (4); and **add** (3.5) as follows:

20 **39-22-129. Child tax credit - legislative declaration -**  
21 **definitions.** (3) (a) EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS  
22 SECTION, for ~~an income tax year specified in subsection (4) of this section~~  
23 YEARS COMMENCING ON OR AFTER JANUARY 1, 2022, a resident individual  
24 who claims a federal child tax credit for an eligible child on the  
25 individual's federal tax return is allowed a child tax credit IN THE AMOUNT  
26 SET FORTH IN SUBSECTION (3)(b) OR (3)(c) OF THIS SECTION against the  
27 income taxes due under this ~~article~~ ARTICLE 22 for the same tax year.

1           (3.5) (a) EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION,  
2           FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2022, A  
3           RESIDENT INDIVIDUAL WHO COULD HAVE CLAIMED A FEDERAL CHILD TAX  
4           CREDIT FOR AN ELIGIBLE CHILD ON THE INDIVIDUAL'S FEDERAL TAX  
5           RETURN HAD SECTION 24 (h)(7) OF THE INTERNAL REVENUE CODE NOT  
6           APPLIED TO THE DEFINITION OF QUALIFYING CHILD, IS ALLOWED A CHILD  
7           TAX CREDIT IN THE AMOUNT SET FORTH IN SUBSECTION (3.5)(b) OR (3.5)(c)  
8           OF THIS SECTION AGAINST THE INCOME TAXES DUE UNDER THIS ARTICLE  
9           22 FOR THE SAME TAX YEAR.

10           (b) (I) FOR A RESIDENT INDIVIDUAL WHO FILES A SINGLE RETURN,  
11           THE AMOUNT OF THE CREDIT IS EQUAL TO:

12           (A) THIRTY PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT  
13           THE RESIDENT INDIVIDUAL COULD HAVE CLAIMED ON THEIR FEDERAL TAX  
14           RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUAL'S FEDERAL  
15           ADJUSTED GROSS INCOME IS TWENTY-FIVE THOUSAND DOLLARS OR LESS;

16           (B) FIFTEEN PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT  
17           THE RESIDENT INDIVIDUAL COULD HAVE CLAIMED ON THEIR FEDERAL TAX  
18           RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUAL'S FEDERAL  
19           ADJUSTED GROSS INCOME IS GREATER THAN TWENTY-FIVE THOUSAND  
20           DOLLARS BUT LESS THAN OR EQUAL TO FIFTY THOUSAND DOLLARS; AND

21           (C) FIVE PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT THE  
22           RESIDENT INDIVIDUAL COULD HAVE CLAIMED ON THEIR FEDERAL TAX  
23           RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUAL'S FEDERAL  
24           ADJUSTED GROSS INCOME IS GREATER THAN FIFTY THOUSAND DOLLARS  
25           BUT LESS THAN OR EQUAL TO SEVENTY-FIVE THOUSAND DOLLARS.

26           (II) A RESIDENT INDIVIDUAL WHO FILES A SINGLE RETURN AND  
27           WHOSE FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN

1 SEVENTY-FIVE THOUSAND DOLLARS IS NOT ALLOWED A CREDIT UNDER  
2 THIS SECTION.

3 (c) (I) FOR TWO RESIDENT INDIVIDUALS WHO FILE A JOINT RETURN,  
4 THE AMOUNT OF THE CREDIT IS EQUAL TO:

5 (A) THIRTY PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT  
6 THE RESIDENT INDIVIDUALS COULD HAVE CLAIMED ON THEIR FEDERAL TAX  
7 RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUALS' FEDERAL  
8 ADJUSTED GROSS INCOME IS THIRTY-FIVE THOUSAND DOLLARS OR LESS;

9 (B) FIFTEEN PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT  
10 THE RESIDENT INDIVIDUALS COULD HAVE CLAIMED ON THEIR FEDERAL TAX  
11 RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUALS' FEDERAL  
12 ADJUSTED GROSS INCOME IS GREATER THAN THIRTY-FIVE THOUSAND  
13 DOLLARS BUT LESS THAN OR EQUAL TO SIXTY THOUSAND DOLLARS; AND

14 (C) FIVE PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT THE  
15 RESIDENT INDIVIDUALS COULD HAVE CLAIMED ON THEIR FEDERAL TAX  
16 RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUALS' FEDERAL  
17 ADJUSTED GROSS INCOME IS GREATER THAN SIXTY THOUSAND DOLLARS  
18 BUT LESS THAN OR EQUAL TO EIGHTY-FIVE THOUSAND DOLLARS.

19 (II) TWO RESIDENT INDIVIDUALS WHO FILE A JOINT RETURN AND  
20 WHOSE FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN EIGHTY-FIVE  
21 THOUSAND DOLLARS ARE NOT ALLOWED A CREDIT UNDER THIS SECTION.

22 (4) ~~No credit is allowed under this section until the United States~~  
23 ~~congress has enacted the "Marketplace Fairness Act of 2013", or any~~  
24 ~~other act with substantially similar requirements, and the general~~  
25 ~~assembly has enacted a law to implement the minimum simplification~~  
26 ~~requirements in the congressional act. The credit allowed under this~~  
27 ~~section may be claimed for any income tax year beginning with the~~

1 ~~income tax year during which the last prerequisite bill under this~~  
2 ~~subsection (4) becomes law; except that, if the last bill becomes law after~~  
3 ~~October 1 of a given year, the credit is first available in the next income~~  
4 ~~tax year, and in no case may the credit be claimed prior to the 2014~~  
5 ~~income tax year.~~ IN ANY INCOME TAX YEAR COMMENCING ON OR AFTER  
6 JANUARY 1, 2022, IF THE CHANGES SPECIFIED IN SECTION 9611 OF THE  
7 "AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 117-2, ARE NO LONGER  
8 APPLICABLE TO THE FEDERAL CHILD TAX CREDIT ALLOWED IN SECTION 24  
9 OF THE INTERNAL REVENUE CODE, THEN THE AMOUNT OF THE CHILD TAX  
10 CREDIT ALLOWED IN THIS SECTION IS AS FOLLOWS:

11 (a) (I) FOR A RESIDENT INDIVIDUAL WHO FILES A SINGLE RETURN,  
12 THE AMOUNT OF THE CREDIT IS EQUAL TO:

13 (A) SIXTY PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT THE  
14 RESIDENT INDIVIDUAL CLAIMED OR COULD HAVE CLAIMED ON THEIR  
15 FEDERAL TAX RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUAL'S  
16 FEDERAL ADJUSTED GROSS INCOME IS TWENTY-FIVE THOUSAND DOLLARS  
17 OR LESS;

18 (B) THIRTY PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT  
19 THE RESIDENT INDIVIDUAL CLAIMED OR COULD HAVE CLAIMED ON THEIR  
20 FEDERAL TAX RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUAL'S  
21 FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN TWENTY-FIVE  
22 THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO FIFTY THOUSAND  
23 DOLLARS; AND

24 (C) TEN PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT THE  
25 RESIDENT INDIVIDUAL CLAIMED OR COULD HAVE CLAIMED ON THEIR  
26 FEDERAL TAX RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUAL'S  
27 FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN FIFTY THOUSAND



1 DOLLARS BUT LESS THAN OR EQUAL TO SEVENTY-FIVE THOUSAND  
2 DOLLARS.

3 (II) A RESIDENT INDIVIDUAL WHO FILES A SINGLE RETURN AND  
4 WHOSE FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN  
5 SEVENTY-FIVE THOUSAND DOLLARS IS NOT ALLOWED A CREDIT UNDER  
6 THIS SECTION.

7 (b) (I) FOR TWO RESIDENT INDIVIDUALS WHO FILE A JOINT RETURN,  
8 THE AMOUNT OF THE CREDIT IS EQUAL TO:

9 (A) SIXTY PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT THE  
10 RESIDENT INDIVIDUALS CLAIMED OR COULD HAVE CLAIMED ON THEIR  
11 FEDERAL TAX RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUALS'  
12 FEDERAL ADJUSTED GROSS INCOME IS THIRTY-FIVE THOUSAND DOLLARS  
13 OR LESS;

14 (B) THIRTY PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT  
15 THE RESIDENT INDIVIDUALS CLAIMED OR COULD HAVE CLAIMED ON THEIR  
16 FEDERAL TAX RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUALS'  
17 FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN THIRTY-FIVE  
18 THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO SIXTY THOUSAND  
19 DOLLARS; AND

20 (C) TEN PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT THE  
21 RESIDENT INDIVIDUALS CLAIMED OR COULD HAVE CLAIMED ON THEIR  
22 FEDERAL TAX RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUALS'  
23 FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN SIXTY THOUSAND  
24 DOLLARS BUT LESS THAN OR EQUAL TO EIGHTY-FIVE THOUSAND DOLLARS.

25 (II) TWO RESIDENT INDIVIDUALS WHO FILE A JOINT RETURN AND  
26 WHOSE FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN EIGHTY-FIVE  
27 THOUSAND DOLLARS ARE NOT ALLOWED A CREDIT UNDER THIS SECTION.

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**SECTION 6.** In Colorado Revised Statutes, 39-22-303, **amend**  
(8), (11)(c)(II), and (12) as follows:

**39-22-303. Dividends in a combined report - foreign source income - affiliated groups - definitions.** (8) (a) EXCEPT AS PROVIDED IN SUBSECTION (8)(b) OF THIS SECTION, neither the taxpayer nor the executive director shall include in a combined report any C corporation ~~which~~ THAT conducts business outside the United States if eighty percent or more of the C corporation's property and payroll, as determined by factoring pursuant to section 24-60-1301, is assigned to locations outside the United States. For the purpose of this subsection (8), "United States" is restricted to the fifty states and the District of Columbia.

(b) (I) FOR TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2022, A TAXPAYER SHALL INCLUDE IN THE COMBINED GROUP ANY MEMBER OF AN AFFILIATED GROUP OF C CORPORATIONS THAT IS INCORPORATED IN A FOREIGN JURISDICTION FOR THE PURPOSE OF TAX AVOIDANCE.

(II) A C CORPORATION IS PRESUMPTIVELY INCORPORATED IN A FOREIGN JURISDICTION FOR THE PURPOSE OF TAX AVOIDANCE IF IT IS INCORPORATED IN A LISTED JURISDICTION. A C CORPORATION IS NOT INCORPORATED IN A FOREIGN JURISDICTION FOR THE PURPOSE OF TAX AVOIDANCE IF THE TAXPAYER PROVES TO THE SATISFACTION OF THE EXECUTIVE DIRECTOR THAT SUCH CORPORATION IS INCORPORATED IN A LISTED JURISDICTION FOR REASONS THAT MEET THE ECONOMIC SUBSTANCE DOCTRINE DESCRIBED IN SECTION 7701 (o) OF THE INTERNAL REVENUE CODE.

(III) FOR PURPOSES OF THIS SUBSECTION (8)(b), THE TERM "C CORPORATION" INCLUDES ANY BUSINESS ENTITY DEFINED AS A

1 "CORPORATION" UNDER THE INTERNAL REVENUE CODE AND THE RULES  
2 AND REGULATIONS PROMULGATED PURSUANT THERETO, REGARDLESS OF  
3 WHETHER SUCH ENTITY IS SUBJECT TO FEDERAL INCOME TAX. ANY  
4 BUSINESS ENTITY INCLUDED IN A COMBINED GROUP UNDER SUBSECTION  
5 (8)(b)(I) OF THIS SECTION IS DEEMED TO BE A "C CORPORATION" FOR  
6 PURPOSES OF THIS ARTICLE 22, NOTWITHSTANDING SECTION 39-22-103  
7 (2.5).

8  
9 (11) (c) If an affiliated C corporation is included in a combined  
10 report, section 39-22-303.5, 39-22-303.6, or 39-22-303.7 shall be applied  
11 with the following modifications:

12 (II) (A) FOR INCOME TAX YEARS COMMENCING BEFORE JANUARY  
13 1, 2022, the numerator of the apportionment calculation set forth in  
14 section 39-22-303.5 or 39-22-303.6 shall be, to the extent applicable, the  
15 sum of the sales of those affiliated C corporations doing business in  
16 Colorado.

17 (B) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY  
18 1, 2022, THE COMBINED GROUP APPORTIONMENT FACTOR IS A FRACTION  
19 DETERMINED UNDER SECTION 39-22-303.6, AS MODIFIED, IF APPLICABLE,  
20 BY SECTION 39-22-303.7, WHERE THE NUMERATOR OF THE FACTOR  
21 INCLUDES AMOUNTS SOURCED TO THE STATE, REGARDLESS OF THE  
22 SEPARATE ENTITY TO WHICH THOSE FACTORS MAY BE ATTRIBUTED, AND  
23 THE DENOMINATOR OF THE FACTOR INCLUDES AMOUNTS ASSOCIATED WITH  
24 THE COMBINED GROUP'S BUSINESS WHEREVER LOCATED.

25 (12) As used in subsections (10) and (11) of this section, the term  
26 AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

27 (a) "Affiliated group" means:

1 (I) One or more ~~chains of~~ includable C corporations connected  
2 DIRECTLY OR INDIRECTLY through stock ownership with a common parent  
3 C corporation ~~which~~ THAT is an includable C corporation if:

4 (H) (A) Stock possessing more than fifty percent of the voting  
5 power of all classes of stock and more than fifty percent of each class of  
6 the nonvoting stock of each of the includable C corporations, except the  
7 common parent C corporation, is owned directly OR INDIRECTLY by one  
8 or more of the other includable C corporations; and

9 (H) (B) The common parent C corporation owns directly OR  
10 INDIRECTLY stock possessing more than fifty percent of the voting power  
11 of all classes of stock and more than fifty percent of each class of the  
12 nonvoting stock of at least one of the other includable C corporations.

13 (b) (II) As used in this ~~subsection (12)~~ SUBSECTION (12)(a), the  
14 term "stock" does not include nonvoting stock ~~which~~ THAT is limited and  
15 preferred as to dividends, employer securities, within the meaning of  
16 section 409(1) of the internal revenue code, while such securities are held  
17 under a tax credit employee stock ownership plan, or qualifying employer  
18 securities, within the meaning of section 4975(e)(8) of the internal  
19 revenue code, while such securities are held under an employee stock  
20 ownership plan which meets the requirements of section 4975(e)(7) of the  
21 internal revenue code.

22

23 (b) "LISTED JURISDICTION" MEANS ANDORRA, ANGUILLA,  
24 ANTIGUA AND BARBUDA, ARUBA, THE BAHAMAS, BAHRAIN, BARBADOS,  
25 BELIZE, BERMUDA, BONAIRE, BRITISH VIRGIN ISLANDS, CAYMAN  
26 ISLANDS, COOK ISLANDS, CURAÇAO, CYPRUS, DOMINICA, GIBRALTAR,  
27 GRENADA, GUERNSEY-SARK-ALDERNEY, ISLE OF MAN, JERSEY, LIBERIA,

1      LUXEMBOURG, MALTA, MARSHALL ISLANDS, MAURITIUS, MONACO,  
2 MONTSERRAT, NAURU, NIUE, PANAMA, SABA, SAMOA, SAN MARINO,  
3 SEYCHELLES, SINT EUSTATIUS, SINT MAARTEN, ST. KITTS AND NEVIS, ST.  
4 LUCIA, ST. VINCENT AND THE GRENADINES, TURKS AND CAICOS ISLANDS,  
5 U.S. VIRGIN ISLANDS, AND VANUATU.

6

7 **SECTION 7.** In Colorado Revised Statutes, 39-22-304, **amend**  
8 (1) and (3)(j); and **add** (2)(j) and (3)(p) as follows:

9 **39-22-304. Net income of corporation - legislative declaration**  
10 **- definitions - repeal.** (1) (a) The net income of a C corporation means  
11 the C corporation's federal taxable income, as defined in the internal  
12 revenue code, for the taxable year, with the modifications specified in this  
13 section.

14 (b) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER  
15 JANUARY 1, 2022, IN THE CASE OF A C CORPORATION THAT IS NOT  
16 INCORPORATED IN THE UNITED STATES, OR INCLUDED IN A CONSOLIDATED  
17 FEDERAL CORPORATE INCOME TAX RETURN, "FEDERAL TAXABLE INCOME"  
18 MEANS THE C CORPORATION'S INCOME OR LOSS AS DETERMINED FROM A  
19 PROFIT AND LOSS STATEMENT PREPARED FOR THAT C CORPORATION ON A  
20 SEPARATE ENTITY BASIS IN THE CURRENCY IN WHICH ITS BOOKS OF  
21 ACCOUNT ARE REGULARLY MAINTAINED, PROVIDED THIS PROFIT AND LOSS  
22 STATEMENT IS SUBJECT TO AN INDEPENDENT AUDIT, ADJUSTED TO  
23 CONFORM TO THE ACCOUNTING PRINCIPLES GENERALLY ACCEPTED IN THE  
24 UNITED STATES FOR THE PREPARATION OF SUCH STATEMENTS AND  
25 FURTHER MODIFIED TO TAKE INTO ACCOUNT ANY BOOK-TAX ADJUSTMENTS  
26 NECESSARY TO REFLECT FEDERAL AND STATE TAX LAW. INCOME OR LOSS  
27 SO COMPUTED INCLUDES ALL INCOME WHEREVER DERIVED AND IS NOT

1 LIMITED TO ITEMS OF INCOME FROM SOURCES WITHIN THE UNITED STATES  
2 OR EFFECTIVELY CONNECTED INCOME WITHIN THE MEANING OF THE  
3 INTERNAL REVENUE CODE. ITEMS OF INCOME, EXPENSE, GAIN OR LOSS,  
4 AND RELATED APPORTIONMENT FACTORS THAT ARE DENOMINATED IN A  
5 FOREIGN CURRENCY MUST ALSO BE TRANSLATED INTO UNITED STATES  
6 DOLLARS ON A REASONABLE BASIS CONSISTENTLY APPLIED YEAR-TO-YEAR  
7 AND ENTITY-BY-ENTITY. UNREALIZED FOREIGN CURRENCY GAINS AND  
8 LOSSES ARE NOT RECOGNIZED. INCOME APPORTIONED TO THIS STATE IS TO  
9 BE EXPRESSED IN UNITED STATES DOLLARS.

10 (II) IN LIEU OF THE PROCEDURES SET FORTH IN SUBSECTION  
11 (1)(b)(I) OF THIS SECTION, OR IN ANY CASE WHERE IT IS NECESSARY TO  
12 FAIRLY AND CONSISTENTLY REFLECT THE INCOME OR LOSS AND  
13 APPORTIONMENT FACTORS OF FOREIGN OPERATIONS INCLUDED IN A  
14 COMBINED REPORT, THE EXECUTIVE DIRECTOR MAY PROVIDE FOR OTHER  
15 PROCEDURES TO REASONABLY APPROXIMATE THE INCOME OR LOSS AND  
16 APPORTIONMENT FACTORS OF MEMBERS WITH FOREIGN OPERATIONS.

17 (2) There shall be added to federal taxable income:

18 (j) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER  
19 JANUARY 1, 2022, BUT BEFORE JANUARY 1, 2023, AN AMOUNT EQUAL TO  
20 A FEDERAL DEDUCTION CLAIMED FOR THE INCOME TAX YEAR FOR A FOOD  
21 AND BEVERAGE EXPENSE THAT EXCEEDS FIFTY PERCENT OF THE AMOUNT  
22 OF THE EXPENSE AND THAT WAS ALLOWED UNDER SECTION 274 (n)(2)(D)  
23 OF THE INTERNAL REVENUE CODE.

24 (II) THIS SUBSECTION (2)(j) IS REPEALED, EFFECTIVE DECEMBER  
25 31, 2030.

26 (3) There shall be subtracted from federal taxable income:

27 (j) Any amount treated as a section 78 dividend under section 78

1 of the internal revenue code EXCLUDING ANY AMOUNT TREATED UNDER  
2 SECTION 78 AS A DIVIDEND RECEIVED FROM A C CORPORATION  
3 INCORPORATED IN A FOREIGN JURISDICTION FOR THE PURPOSE OF TAX  
4 AVOIDANCE PURSUANT TO SECTION 39-22-303 (8)(b)(II);

5 (p) (I) ANY AMOUNT INCLUDED IN FEDERAL TAXABLE INCOME  
6 PURSUANT TO SECTION 951 (a) OF THE INTERNAL REVENUE CODE WITH  
7 RESPECT TO A CONTROLLED FOREIGN CORPORATION THAT IS A C  
8 CORPORATION INCORPORATED IN A FOREIGN JURISDICTION FOR THE  
9 PURPOSE OF TAX AVOIDANCE PURSUANT TO SECTION 39-22-303 (8)(b)(II);  
10 AND

11 (II) THE AMOUNT OF ANY GLOBAL INTANGIBLE LOW-TAXED  
12 INCOME INCLUDED IN FEDERAL TAXABLE INCOME PURSUANT TO SECTION  
13 951A (a) OF THE INTERNAL REVENUE CODE WITH RESPECT TO A  
14 CONTROLLED FOREIGN CORPORATION THAT IS A C CORPORATION  
15 INCORPORATED IN A FOREIGN JURISDICTION FOR THE PURPOSE OF TAX  
16 AVOIDANCE PURSUANT TO SECTION 39-22-303 (8)(b)(II), LESS ANY  
17 AMOUNT DEDUCTED UNDER SECTION 250 (a)(1)(B) OF THE INTERNAL  
18 REVENUE CODE WITH RESPECT TO SUCH GLOBAL INTANGIBLE LOW-TAXED  
19 INCOME.

20 **SECTION 8.** In Colorado Revised Statutes, 39-22-518,  
21 **amend** (2)(a)(I), (2)(b)(I)(B.5), and (2)(b)(II) introductory portion; and  
22 **add** (2)(a)(I.5), (2)(b)(I)(B.7), and (2)(b)(II)(C) as follows:

23 **39-22-518. Tax modification for net capital gains - definitions**  
24 **- repeal.** (2) For the purposes of this section:

25 (a) (I) "Qualified taxpayer" FOR INCOME TAX YEARS COMMENCING  
26 BEFORE JANUARY 1, 2022, means any taxpayer with no overdue state tax  
27 liabilities and not in default on any contractual obligations owed to the

1 state or to any local government within Colorado at the time the  
2 modification created under this section is claimed. THIS SUBSECTION  
3 (2)(a)(I) IS REPEALED, EFFECTIVE DECEMBER 31, 2030.

4 (I.5) "QUALIFIED TAXPAYER" MEANS, FOR INCOME TAX YEARS  
5 COMMENCING ON OR AFTER JANUARY 1, 2022, ANY TAXPAYER THAT HAS  
6 NO OVERDUE STATE TAX LIABILITIES; THAT IS NOT IN DEFAULT ON ANY  
7 CONTRACTUAL OBLIGATIONS OWED TO THE STATE OR TO ANY LOCAL  
8 GOVERNMENT WITHIN COLORADO AT THE TIME THE MODIFICATION  
9 CREATED UNDER THIS SECTION IS CLAIMED; AND THAT IS REQUIRED TO FILE  
10 A SCHEDULE F, PROFIT OR LOSS FROM FARMING, OR SUCCESSOR FORM, AS  
11 AN ATTACHMENT TO THE TAXPAYER'S FEDERAL INCOME TAX RETURN FOR  
12 THE TAX YEAR IN WHICH THE NET CAPITAL GAINS ARISE.

13 (b) (I) "Qualifying gains receiving capital treatment" means the  
14 amount of net capital gains, as defined in section 1222 (11) of the internal  
15 revenue code, included in any qualified taxpayer's federal income tax  
16 return and:

17 (B.5) FOR INCOME TAX YEARS COMMENCING BEFORE JANUARY 1,  
18 2022, earned by the qualified taxpayer on either real or tangible personal  
19 property located within Colorado that was acquired on or after May 9,  
20 1994, but before June 4, 2009, or on tangible personal property only  
21 located either within or outside Colorado that was acquired on or after  
22 June 4, 2009, and either of which has been owned by the qualified  
23 taxpayer for a holding period of at least five years prior to the date of the  
24 transaction from which the net capital gains arise if the transaction from  
25 which the net capital gains arise occurred during an income tax year that  
26 commenced on or after January 1, 2010; except that no more than one  
27 hundred thousand dollars of net capital gains described in this



1 ~~sub-subparagraph (B.5) shall be~~ SUBSECTION (2)(b)(I)(B.5) ARE  
2 qualifying gains receiving capital treatment for any single income tax  
3 year. THIS SUBSECTION (2)(b)(I)(B.5) IS REPEALED, EFFECTIVE DECEMBER  
4 31, 2030.

5 (B.7) FOR INCOME TAX YEARS COMMENCING ON OR AFTER  
6 JANUARY 1, 2022, EARNED BY THE QUALIFIED TAXPAYER ON QUALIFIED  
7 REAL PROPERTY THAT WAS ACQUIRED ON OR AFTER MAY 9, 1994, BUT  
8 BEFORE JUNE 4, 2009, AND HAS BEEN OWNED BY THE QUALIFIED  
9 TAXPAYER FOR A HOLDING PERIOD OF AT LEAST FIVE YEARS PRIOR TO THE  
10 DATE OF THE TRANSACTION FROM WHICH THE NET CAPITAL GAINS ARISE;  
11 EXCEPT THAT NO MORE THAN ONE HUNDRED THOUSAND DOLLARS OF NET  
12 CAPITAL GAINS DESCRIBED IN THIS SUBSECTION (2)(b)(I)(B.7) ARE  
13 QUALIFYING GAINS RECEIVING CAPITAL TREATMENT FOR ANY SINGLE  
14 INCOME TAX YEAR.

15 (II) For purposes of this ~~paragraph (b)~~ SUBSECTION (2)(b):

16 (C) "QUALIFIED REAL PROPERTY" MEANS REAL PROPERTY  
17 LOCATED IN COLORADO THAT IS SOLD BY THE TAXPAYER AND GENERATES  
18 THE QUALIFYING GAINS RECEIVING CAPITAL TREATMENT AND THAT IS  
19 CLASSIFIED BY THE COUNTY PROPERTY TAX ASSESSOR IMMEDIATELY  
20 PRECEDING THE SALE AS AGRICULTURAL LAND UNDER SECTION 39-1-102  
21 (1.6)(a). IF REAL PROPERTY IS SOLD AS A TYPE OF INVESTMENT PACKAGE,  
22 THEN, IN ORDER TO BE QUALIFIED REAL PROPERTY, AT LEAST  
23 SEVENTY-FIVE PERCENT OF THE REAL PROPERTY SOLD IN THE PACKAGE  
24 MUST BE CLASSIFIED BY THE COUNTY PROPERTY TAX ASSESSOR  
25 IMMEDIATELY PRECEDING THE SALE AS AGRICULTURAL LAND UNDER  
26 SECTION 39-1-102 (1.6)(a).

27 **SECTION 9.** In Colorado Revised Statutes, **add** 39-22-542 as

1 follows:

2 **39-22-542. Tax credit for conversion costs for employee**  
3 **business ownership - definitions - declaration - repeal. (1) Legislative**

4 **declaration.** (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES  
5 THAT:

6 (I) THE PURPOSE OF THIS SECTION IS TO PROVIDE AN INCENTIVE  
7 FOR SMALL BUSINESSES TO ESTABLISH EMPLOYEE STOCK OWNERSHIP  
8 PLANS OR EMPLOYEE OWNERSHIP TRUSTS, OR TO CONVERT TO A  
9 WORKER-OWNED COOPERATIVE;

10 (II) AN EMPLOYEE STOCK OWNERSHIP PLAN ALLOWS COMPANIES  
11 TO SHARE OWNERSHIP WITH EMPLOYEES WITHOUT REQUIRING EMPLOYEES  
12 TO INVEST THEIR OWN MONEY;

13 (III) THIS SECTION ENCOURAGES SMALL BUSINESS OWNERS TO  
14 SELL, THROUGH THREE DIFFERENT OPTIONS, THEIR BUSINESSES TO THE  
15 VERY EMPLOYEES THAT CONTRIBUTED TO THEIR SUCCESS; AND

16 (IV) THIS SECTION WILL HELP TO ENSURE THAT LOCAL BUSINESSES  
17 ARE NOT SOLD TO OUT-OF-STATE BUYERS, WHICH IS OFTEN DETRIMENTAL  
18 TO THE FABRIC OF LOCAL COMMUNITIES.

19 (b) IT IS THE GENERAL ASSEMBLY'S INTENT THAT THE COLORADO  
20 OFFICE OF ECONOMIC DEVELOPMENT PROVIDE RELEVANT AND  
21 ASCERTAINABLE METRICS AND COLLECT ANY NECESSARY DATA TO ALLOW  
22 THE STATE AUDITOR TO MEASURE THE EFFECTIVENESS OF THE TAX CREDIT  
23 IN THIS SECTION IN ACHIEVING THE PURPOSE SET FORTH IN SUBSECTION  
24 (1)(a) OF THIS SECTION.

25 (2) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT  
26 OTHERWISE REQUIRES:

27 (a) "COLORADO OFFICE OF ECONOMIC DEVELOPMENT" OR "OFFICE"

1 MEANS THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT CREATED IN  
2 SECTION 24-48.5-101.

3 (b) "CONVERSION COSTS" MEANS PROFESSIONAL SERVICES,  
4 INCLUDING ACCOUNTING, LEGAL, AND BUSINESS ADVISORY SERVICES, AS  
5 DETAILED IN THE GUIDELINES ISSUED BY THE OFFICE, FOR THE TRANSITION  
6 OF A BUSINESS TO EMPLOYEE OWNERSHIP TRUST, AN EMPLOYEE STOCK  
7 OWNERSHIP PLAN, OR A WORKER-OWNED COOPERATIVE. "CONVERSION  
8 COSTS" INCLUDE COSTS TO AUDIT THE COST CERTIFICATION AS REQUIRED  
9 IN SUBSECTION (7)(b) OF THIS SECTION.

10 (c) "DEPARTMENT" MEANS THE COLORADO DEPARTMENT OF  
11 REVENUE.

12 (d) "EMPLOYEE OWNERSHIP TRUST" MEANS AN INDIRECT FORM OF  
13 EMPLOYEE OWNERSHIP IN WHICH A TRUST HOLDS A CONTROLLING STAKE  
14 IN A QUALIFIED BUSINESS AND BENEFITS ALL EMPLOYEES ON AN EQUAL  
15 BASIS.

16 (e) "EMPLOYEE STOCK OWNERSHIP PLAN" HAS THE SAME MEANING  
17 AS SET FORTH IN SECTION 4975 (e)(7) OF THE INTERNAL REVENUE CODE,  
18 AS AMENDED.

19 (f) "OWNER" MEANS THE OWNER OF A QUALIFIED BUSINESS BEFORE  
20 A CONVERSION OCCURS.

21 (g) "QUALIFIED BUSINESS" MEANS A TAXPAYER SUBJECT TO TAX  
22 UNDER THIS ARTICLE 22, INCLUDING BUT NOT LIMITED TO A C  
23 CORPORATION, S CORPORATION, LIMITED LIABILITY COMPANY,  
24 PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, A SOLE PROPRIETORSHIP,  
25 OR OTHER SIMILAR PASS-THROUGH ENTITY, THAT IS NOT OWNED IN WHOLE  
26 OR IN PART BY AN EMPLOYEE OWNERSHIP TRUST, THAT DOES NOT HAVE AN  
27 EMPLOYEE STOCK OWNERSHIP PLAN, OR THAT IS NOT, IN WHOLE OR IN

1 PART, A WORKER-OWNED COOPERATIVE, AND THAT IS APPROVED BY THE  
2 OFFICE FOR THE TAX INCENTIVES IN THIS SECTION.

3 (h) "WORKER-OWNED COOPERATIVE" HAS THE SAME MEANING AS  
4 SET FORTH IN SECTION 1042 (c)(2) OF THE INTERNAL REVENUE CODE, AS  
5 AMENDED.

6 (3) (a) SUBJECT TO CERTIFICATION BY THE OFFICE PURSUANT TO  
7 THIS SECTION, FOR INCOME TAX YEARS COMMENCING ON OR AFTER  
8 JANUARY 1, 2022, BUT PRIOR TO JANUARY 1, 2027, THERE SHALL BE  
9 ALLOWED A CREDIT WITH RESPECT TO THE INCOME TAXES IMPOSED  
10 PURSUANT TO THIS ARTICLE 22 AS FOLLOWS:

11 (I) UP TO FIFTY PERCENT OF THE CONVERSION COSTS, NOT TO  
12 EXCEED TWENTY-FIVE THOUSAND DOLLARS, INCURRED BY A QUALIFIED  
13 BUSINESS FOR CONVERTING THE QUALIFIED BUSINESS TO A  
14 WORKER-OWNED COOPERATIVE OR AN EMPLOYEE OWNERSHIP TRUST; OR

15 (II) UP TO FIFTY PERCENT OF THE CONVERSION COSTS, NOT TO  
16 EXCEED ONE HUNDRED THOUSAND DOLLARS, INCURRED BY A QUALIFIED  
17 BUSINESS FOR CONVERTING THE QUALIFIED BUSINESS TO AN EMPLOYEE  
18 STOCK OWNERSHIP PLAN.

19 (b) (I) IN THE CASE OF A QUALIFIED BUSINESS THAT IS A C  
20 CORPORATION, THE CREDIT IS ALLOWED TO THE QUALIFIED BUSINESS.

21 (II) IN THE CASE OF A QUALIFIED BUSINESS THAT IS A PARTNERSHIP  
22 OR AN S CORPORATION, THE CREDIT IS ALLOWED TO THE OWNER.

23 (c) THE MAXIMUM AMOUNT OF ALL TAX CREDIT CERTIFICATES  
24 THAT THE OFFICE MAY RESERVE UNDER SUBSECTION (6)(a) OF THIS  
25 SECTION IN ANY TAX YEAR IS TEN MILLION DOLLARS.

26 (4) A BUSINESS SHALL SUBMIT AN APPLICATION TO THE OFFICE FOR  
27 THE ISSUANCE OF A CREDIT CERTIFICATE FOR THE CREDIT ALLOWED IN THIS

1 SECTION BY THE DEADLINES ESTABLISHED IN THE OFFICE'S GUIDELINES.  
2 THE APPLICATION MUST INCLUDE INFORMATION, AS SET FORTH IN THE  
3 OFFICE'S GUIDELINES, REGARDING THE TYPE OF CONVERSION THE BUSINESS  
4 INTENDS TO UNDERTAKE, A LIST OF THE EXPECTED CONVERSION COSTS,  
5 AND AN ESTIMATED AMOUNT, AS CALCULATED BY THE BUSINESS, OF THE  
6 EXPECTED CONVERSION COSTS.

7 (5) (a) THE OFFICE SHALL DEVELOP GUIDELINES FOR THE  
8 ADMINISTRATION OF THIS SECTION, INCLUDING, BUT NOT LIMITED TO:

9 (I) APPLICATION REQUIREMENTS, INCLUDING A LIST OF THE DATA  
10 THE OFFICE NEEDS TO MEET THE REQUIREMENTS IN SUBSECTIONS (11) AND  
11 (12) OF THIS SECTION;

12 (II) GUIDELINES REGARDING THE ISSUING OF CREDIT  
13 CERTIFICATES;

14 (III) DETAILED GUIDELINES REGARDING CONVERSION COSTS; AND

15 (IV) GUIDELINES AND STANDARDS FOR CERTIFYING A BUSINESS AS  
16 A QUALIFIED BUSINESS.

17 (b) BEFORE THE OFFICE BEGINS TO PROVIDE RESERVATIONS OF TAX  
18 CREDITS UNDER SUBSECTION (6) OF THIS SECTION, THE OFFICE SHALL  
19 PROVIDE THE FINANCE COMMITTEES OF THE HOUSE OF REPRESENTATIVES  
20 AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, WITH A WRITTEN  
21 REPORT SETTING FORTH THE CLEAR, RELEVANT, AND ASCERTAINABLE  
22 METRICS AND DATA REQUIREMENTS THAT THE OFFICE WILL TRACK UNDER  
23 SUBSECTION (12) OF THIS SECTION IN ORDER TO ALLOW THE GENERAL  
24 ASSEMBLY AND THE STATE AUDITOR TO MEASURE THE EFFECTIVENESS OF  
25 THE TAX EXPENDITURE ALLOWED IN THIS SECTION IN ACHIEVING THE  
26 PURPOSE SET FORTH IN SUBSECTION (1)(a) OF THIS SECTION.

27 (6) (a) (I) AFTER THE OFFICE PROVIDES THE WRITTEN REPORT

1       REQUIRED IN SUBSECTION (5)(b) OF THIS SECTION, A RESERVATION OF TAX  
2       CREDITS IS PERMITTED FOR THE TAX CREDIT ALLOWED IN THIS SECTION. IF  
3       THE OFFICE DETERMINES THAT THE APPLICATION FILED UNDER SUBSECTION  
4       (4) OF THIS SECTION IS COMPLETE, THE OFFICE SHALL DETERMINE  
5       WHETHER THE BUSINESS IS A QUALIFIED BUSINESS, REVIEW THE LIST OF  
6       THE EXPECTED CONVERSION COSTS, AND REVIEW THE ESTIMATED  
7       CONVERSION COSTS AS CALCULATED BY THE BUSINESS. IF THE OFFICE  
8       APPROVES THE BUSINESS AS A QUALIFIED BUSINESS, THE LIST OF EXPECTED  
9       CONVERSION COSTS, AND THE ESTIMATED CONVERSION COSTS, THE OFFICE  
10      MAY RESERVE FOR THE BENEFIT OF THE QUALIFIED BUSINESS OR THE  
11      OWNER AN ALLOCATION OF A TAX CREDIT SUBJECT TO THE LIMITATION  
12      SPECIFIED IN SUBSECTION (3)(b) OF THIS SECTION. THE OFFICE SHALL  
13      NOTIFY THE QUALIFIED BUSINESS IN WRITING OF THE AMOUNT OF THE  
14      RESERVATION. THE RESERVATION OF A TAX CREDIT DOES NOT ENTITLE THE  
15      QUALIFIED BUSINESS OR THE OWNER TO AN ISSUANCE OF A TAX CREDIT  
16      CERTIFICATE UNTIL THE QUALIFIED BUSINESS COMPLIES WITH ALL OF THE  
17      OTHER REQUIREMENTS SPECIFIED IN THIS SECTION FOR THE ISSUANCE OF  
18      THE TAX CREDIT CERTIFICATE.

19               (II) A BUSINESS MAY APPLY FOR A STAGED CONVERSION. IF THE  
20      OFFICE RECEIVES AN APPLICATION FOR A STAGED CONVERSION, AND THE  
21      OFFICE DETERMINES THE REQUIREMENTS SET FORTH IN SUBSECTION  
22      (6)(a)(I) OF THIS SECTION HAVE BEEN MET, THE OFFICE SHALL RESERVE  
23      TAX CREDITS FOR ALL STAGES OF THE QUALIFIED BUSINESS'S CONVERSION  
24      IN THE YEAR THE APPLICATION IS FILED. THE OFFICE MAY CERTIFY THE  
25      STAGED CONVERSION COSTS AND ISSUE TAX CREDIT CERTIFICATES UNDER  
26      SUBSECTION (7)(b)(II) OF THIS SECTION WHEN THE COSTS ARE INCURRED.

27               (b) (I) THE OFFICE MUST RESERVE TAX CREDITS IN THE ORDER IN

1 WHICH IT RECEIVES COMPLETED APPLICATIONS THAT COMPLY WITH THE  
2 REQUIREMENTS OF THIS SECTION AND THE GUIDELINES DEVELOPED BY THE  
3 OFFICE. THE OFFICE SHALL PROVIDE WRITTEN NOTICE OF ANY  
4 RESERVATION OF TAX CREDITS AUTHORIZED BY THIS SUBSECTION (6) OR  
5 DISAPPROVE THE APPLICATION WITHIN A REASONABLE TIME, NOT TO  
6 EXCEED NINETY DAYS AFTER THE FILING OF A COMPLETED APPLICATION.

7 (II) THE OFFICE SHALL STAMP EACH COMPLETED APPLICATION  
8 WITH THE DATE AND TIME THE APPLICATION WAS RECEIVED AND SHALL  
9 REVIEW THE APPLICATION ON THE BASIS OF THE ORDER IN WHICH IT WAS  
10 SUBMITTED BY DATE AND TIME.

11 (III) ANY APPLICATION DISAPPROVED BY THE OFFICE WILL BE  
12 REMOVED FROM THE REVIEW PROCESS, AND THE OFFICE SHALL NOTIFY THE  
13 BUSINESS IN WRITING OF THE DECISION TO REMOVE ITS APPLICATION FROM  
14 THE REVIEW PROCESS. DISAPPROVED APPLICATIONS LOSE THEIR PRIORITY  
15 IN THE REVIEW PROCESS. A BUSINESS MAY RESUBMIT A DISAPPROVED  
16 APPLICATION, BUT SUCH RESUBMITTED APPLICATION IS DEEMED TO BE A  
17 NEW SUBMISSION FOR PURPOSES OF THE PRIORITY PROCEDURES DESCRIBED  
18 IN THIS SUBSECTION (6)(b).

19 (c) IF, FOR ANY CALENDAR YEAR, THE TOTAL AMOUNT OF  
20 RESERVATIONS FOR TAX CREDITS THE OFFICE HAS APPROVED IS EQUAL TO  
21 THE TOTAL AMOUNT OF TAX CREDITS AVAILABLE FOR RESERVATION  
22 DURING THAT CALENDAR YEAR, THE OFFICE SHALL NOTIFY ALL BUSINESSES  
23 WHO HAVE SUBMITTED APPLICATIONS THEN AWAITING APPROVAL THAT NO  
24 ADDITIONAL APPROVALS OF APPLICATIONS FOR RESERVATIONS OF TAX  
25 CREDITS WILL BE GRANTED DURING THAT CALENDAR YEAR. THE OFFICE  
26 SHALL ADDITIONALLY NOTIFY EACH BUSINESS OF THE PRIORITY NUMBER  
27 GIVEN TO THE BUSINESS'S APPLICATION THEN AWAITING APPROVAL. THE

1 APPLICATIONS WILL REMAIN IN PRIORITY STATUS FOR TWO YEARS FROM  
2 THE DATE OF THE ORIGINAL APPLICATION AND WILL BE CONSIDERED FOR  
3 RESERVATIONS OF TAX CREDITS IN THE PRIORITY ORDER ESTABLISHED IN  
4 THIS SUBSECTION (6) IN THE EVENT THAT ADDITIONAL CREDITS BECOME  
5 AVAILABLE RESULTING FROM THE RESCISSION OF APPROVALS UNDER  
6 SUBSECTION (7)(a) OF THIS SECTION OR BECAUSE A NEW ALLOCATION OF  
7 TAX CREDITS FOR A CALENDAR YEAR BECOMES AVAILABLE.

8 (7) (a) ANY QUALIFIED BUSINESS WITH RESPECT TO WHICH THE  
9 OFFICE HAS MADE A RESERVATION OF TAX CREDITS UNDER SUBSECTION (6)  
10 OF THIS SECTION SHALL INCUR NOT LESS THAN TWENTY PERCENT OF THE  
11 ESTIMATED CONVERSION COSTS NOT LATER THAN EIGHTEEN MONTHS  
12 AFTER THE DATE OF THE WRITTEN NOTICE FROM THE OFFICE TO THE  
13 QUALIFIED BUSINESS GRANTING THE RESERVATION OF TAX CREDITS. THE  
14 QUALIFIED BUSINESS SHALL SUBMIT EVIDENCE OF COMPLIANCE WITH  
15 THE PROVISIONS OF THIS SUBSECTION (7)(a). IF THE OFFICE DETERMINES  
16 THAT A QUALIFIED BUSINESS HAS FAILED TO COMPLY WITH THE  
17 REQUIREMENTS OF THIS SUBSECTION (7)(a), THE OFFICE MAY RESCIND THE  
18 WRITTEN NOTICE IT PREVIOUSLY GAVE THE BUSINESS OR THE OWNER  
19 APPROVING THE RESERVATION OF TAX CREDITS AND, IF SO, THE TOTAL  
20 AMOUNT OF TAX CREDITS MADE AVAILABLE FOR THE CALENDAR YEAR FOR  
21 WHICH RESERVATIONS MAY BE GRANTED MUST BE INCREASED BY THE  
22 AMOUNT OF THE TAX CREDITS RESCINDED. THE OFFICE SHALL PROMPTLY  
23 NOTIFY ANY QUALIFIED BUSINESS OR THE OWNER WHOSE RESERVATION OF  
24 TAX CREDITS HAS BEEN RESCINDED AND, UPON RECEIPT OF THE NOTICE,  
25 THE QUALIFIED BUSINESS MAY SUBMIT A NEW APPLICATION.

26 (b) (I) FOLLOWING THE COMPLETION OF THE CONVERSION, THE  
27 QUALIFIED BUSINESS SHALL NOTIFY THE OFFICE THAT THE CONVERSION



1 HAS BEEN COMPLETED AND SHALL PROVIDE THE OFFICE WITH A COST  
2 CERTIFICATION OF THE ESTIMATED CONVERSION COSTS. THE COST  
3 CERTIFICATION MUST BE AUDITED BY A LICENSED CERTIFIED PUBLIC  
4 ACCOUNTANT THAT IS NOT AFFILIATED WITH THE QUALIFIED BUSINESS.  
5 THE OFFICE SHALL REVIEW THE COST CERTIFICATION, AND WITHIN NINETY  
6 DAYS AFTER RECEIPT OF THE COST CERTIFICATION, THE OFFICE SHALL  
7 CERTIFY THE CONVERSION COSTS AND ISSUE A TAX CREDIT CERTIFICATE IN  
8 THE AMOUNTS ALLOWED IN SUBSECTION (3) OF THIS SECTION. THE OFFICE  
9 SHALL PROMPTLY NOTIFY THE QUALIFIED BUSINESS OF ANY DISALLOWED  
10 CONVERSION COSTS.

11 (II) IF A CONVERSION IS A STAGED CONVERSION AS SET FORTH IN  
12 SUBSECTION (6)(a)(II) OF THIS SECTION, AND THE QUALIFIED BUSINESS  
13 MEETS THE REQUIREMENTS IN THIS SUBSECTION (7), THE OFFICE SHALL  
14 ISSUE PRO RATA TAX CREDIT CERTIFICATES TO A QUALIFIED BUSINESS OR  
15 THE OWNER BASED ON THE PERCENT OF THE CONVERSION COMPLETED  
16 DURING EACH TAX YEAR.

17 (c) NOTWITHSTANDING SUBSECTION (7)(b) OF THIS SECTION, THE  
18 TOTAL AMOUNT OF THE TAX CREDIT CERTIFICATE ISSUED TO A QUALIFIED  
19 BUSINESS OR THE OWNER SHALL NOT EXCEED THE AMOUNT OF THE TAX  
20 CREDIT RESERVATION UNDER SUBSECTION (6)(a) OF THIS SECTION.

21 (d) IF THE AMOUNT OF CERTIFIED COSTS INCURRED BY THE  
22 QUALIFIED BUSINESS WOULD RESULT IN A QUALIFIED BUSINESS OR THE  
23 OWNER BEING ISSUED AN AMOUNT OF TAX CREDITS THAT EXCEEDS THE  
24 AMOUNT OF TAX CREDITS RESERVED FOR THE BUSINESS UNDER  
25 SUBSECTION (6)(a) OF THIS SECTION, THE QUALIFIED BUSINESS MAY APPLY  
26 TO THE OFFICE FOR THE ISSUANCE OF AN AMOUNT OF TAX CREDITS THAT  
27 EQUALS THE EXCESS. THE QUALIFIED BUSINESS MUST SUBMIT ITS

1 APPLICATION FOR ISSUANCE OF SUCH EXCESS TAX CREDITS ON A FORM  
2 PRESCRIBED BY THE OFFICE. UNLESS THE OFFICE IS CONCERNED THE  
3 APPLICATION IT RECEIVED UNDER THIS SUBSECTION (7)(d) IS FRAUDULENT,  
4 THE OFFICE SHALL AUTOMATICALLY APPROVE THE APPLICATION, WHICH IT  
5 SHALL ISSUE BY MEANS OF A SEPARATE CERTIFICATE, SUBJECT ONLY TO  
6 THE AVAILABILITY OF TAX CREDITS AND THE PROVISIONS CONCERNING  
7 PRIORITY PROVIDED IN SUBSECTION (6)(a) OF THIS SECTION.

8 (8) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE  
9 INCOME TAXES DUE ON THE QUALIFIED BUSINESS'S OR THE OWNER'S  
10 INCOME, THE AMOUNT OF THE CREDIT NOT USED TO OFFSET INCOME TAXES  
11 MUST BE REFUNDED TO THE QUALIFIED BUSINESS OR THE OWNER.

12 (9) ANY TAX CREDITS ISSUED UNDER THIS SECTION TO A  
13 PARTNERSHIP OR AN S CORPORATION MUST BE PASSED THROUGH TO THE  
14 PARTNERS, MEMBERS, OR OWNERS, INCLUDING ANY NONPROFIT ENTITY  
15 THAT IS A PARTNER, MEMBER, OR OWNER, RESPECTIVELY, ON A PRO RATA  
16 BASIS ACCORDING TO THEIR OWNERSHIP PERCENTAGE.

17 (10) TO CLAIM THE INCOME TAX CREDIT ALLOWED IN THIS  
18 SECTION, THE QUALIFIED BUSINESS OR THE OWNER SHALL ATTACH A COPY  
19 OF THE CREDIT CERTIFICATE TO ITS STATE INCOME TAX RETURN. NO TAX  
20 CREDIT IS ALLOWED UNDER THIS SECTION UNLESS THE QUALIFIED BUSINESS  
21 OR THE OWNER PROVIDES THE COPY OF THE CREDIT CERTIFICATE WITH ITS  
22 FILED STATE INCOME TAX RETURN. THE AMOUNT OF THE CREDIT THAT THE  
23 QUALIFIED BUSINESS MAY CLAIM UNDER THIS SECTION IS THE AMOUNT  
24 STATED ON THE TAX CREDIT CERTIFICATE.

25 (11) THE OFFICE SHALL, IN A SUFFICIENTLY TIMELY MANNER TO  
26 ALLOW THE DEPARTMENT TO PROCESS RETURNS CLAIMING THE INCOME  
27 TAX CREDIT ALLOWED IN THIS SECTION, PROVIDE THE DEPARTMENT WITH

1 AN ELECTRONIC REPORT OF EACH QUALIFIED BUSINESS OR THE OWNER  
2 THAT THE OFFICE APPROVED FOR THE INCOME TAX CREDIT ALLOWED IN  
3 THIS SECTION FOR THE PRECEDING CALENDAR YEAR THAT INCLUDES THE  
4 FOLLOWING INFORMATION:

5 (a) THE TAXPAYER'S NAME; AND

6 (b) THE TAXPAYER'S SOCIAL SECURITY NUMBER OR THE  
7 TAXPAYER'S COLORADO ACCOUNT NUMBER AND FEDERAL EMPLOYER  
8 IDENTIFICATION NUMBER.

9 (12) THE OFFICE SHALL MAINTAIN A DATABASE OF ANY  
10 INFORMATION NECESSARY TO EVALUATE THE EFFECTIVENESS OF THE TAX  
11 CREDIT ALLOWED IN THIS SECTION IN MEETING THE PURPOSES SET FORTH  
12 IN SUBSECTION (1)(a) OF THIS SECTION, AND SHALL PROVIDE SUCH  
13 INFORMATION, AND ANY OTHER INFORMATION THAT MAY BE NEEDED, TO  
14 THE STATE AUDITOR AS PART OF THE STATE AUDITOR'S EVALUATION OF  
15 TAX EXPENDITURES UNDER SECTION 39-21-305.

16 (13) THE OFFICE SHALL CONDUCT STATEWIDE OUTREACH EFFORTS,  
17 WITHIN EXISTING RESOURCES, TO MINORITY OWNED BUSINESSES, AS  
18 DEFINED IN SECTION 24-48.5-127 (2)(g), ABOUT THE AVAILABILITY OF THE  
19 TAX CREDIT ALLOWED IN THIS SECTION.

20 (14) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2033.

21 **SECTION 10.** In Colorado Revised Statutes, 39-22-112, **amend**  
22 (1) as follows:

23 **39-22-112. Persons and organizations exempt from tax under**  
24 **this article.** (1) A person or organization exempt from federal income  
25 taxation under the provisions of the internal revenue code shall also be  
26 exempt from the tax imposed by this ~~article~~ ARTICLE 22 in each year in  
27 which such person or organization satisfies the requirements of the

1 internal revenue code for exemption from federal income taxation; except  
2 that insurance companies subject to the tax imposed on gross premiums  
3 by section 10-3-209 ~~C.R.S.~~, shall also be exempt from the tax imposed by  
4 this ~~article~~ ARTICLE 22. DISQUALIFIED INSURANCE COMPANIES, AS  
5 DEFINED IN SECTION 10-1-102 (6.5), SHALL NOT BE EXEMPT FROM THE TAX  
6 IMPOSED BY THIS ARTICLE 22. If the exemption applicable to any person  
7 or organization under the provisions of the internal revenue code is  
8 limited or qualified in any manner, the exemption from taxes imposed by  
9 this ~~article~~ ARTICLE 22 shall be limited or qualified in a similar manner.

10 **SECTION 11.** In Colorado Revised Statutes, 10-1-102, **amend**  
11 the introductory portion; and **add** (6.5) as follows:

12 **10-1-102. Definitions.** As used in this ~~title~~ TITLE 10, unless the  
13 context otherwise requires:

14 (6.5) "DISQUALIFIED INSURANCE COMPANY" MEANS A COMPANY  
15 LICENSED AS A CAPTIVE INSURANCE COMPANY UNDER THE LAWS OF THIS  
16 STATE OR THE LAWS OF ANOTHER JURISDICTION WITH GROSS RECEIPTS FOR  
17 THE TAXABLE YEAR THAT CONSIST FIFTY PERCENT OR LESS OF PREMIUMS  
18 FROM ARRANGEMENTS THAT CONSTITUTE INSURANCE FOR FEDERAL  
19 INCOME TAX PURPOSES.

20 **SECTION 12.** In Colorado Revised Statutes, 10-3-209, **amend**  
21 (1)(a) as follows:

22 **10-3-209. Tax on premiums collected - exemptions - penalties.**

23 (1) (a) All insurance companies writing business in this state, including,  
24 without limitation, those defined in section 10-1-102 (6), EXCEPT A  
25 DISQUALIFIED INSURANCE COMPANY, shall pay to the division of insurance  
26 a tax on the gross amount of all premiums collected or contracted for on  
27 policies or contracts of insurance covering property or risks in this state

1 during the previous calendar year, after deducting from such gross  
2 amount the amount received as reinsurance premiums on business in this  
3 state, and the amount refunded under credit life and credit accident and  
4 health insurance policies on account of termination of insurance prior to  
5 the maturity date of the indebtedness, and, in the case of companies other  
6 than life, the amounts paid to policyholders as return premiums, which  
7 shall include dividends or unabsorbed premiums or premium deposits  
8 returned or credited to policyholders.

9 **SECTION 13.** In Colorado Revised Statutes, 10-6-128, **amend**  
10 (1) as follows:

11 **10-6-128. Tax on premiums collected - exemptions - penalties.**

12 (1) All captive insurance companies doing business in this state, EXCEPT  
13 A DISQUALIFIED INSURANCE COMPANY, shall pay to the division of  
14 insurance an annual tax on the gross amount of all premiums collected,  
15 less premiums or premium credits returned to policyholders, on policies  
16 or contracts of insurance covering property or risks in this state and on  
17 risks and property situated in any other state in which the insurer has not  
18 paid premium tax.

19 **SECTION 14. Appropriation.** (1) For the 2021-22 state fiscal  
20 year, \$68,041 is appropriated to the office of the governor for use by  
21 economic development programs. This appropriation is from the general  
22 fund and is based on an assumption that the office will require an  
23 additional 0.5 FTE. To implement this act, the office may use this  
24 appropriation for employee ownership tax credit administration.

25 (2) For the 2021-22 state fiscal year, \$64,856 is appropriated to  
26 the department of revenue. This appropriation is from the general fund.  
27 To implement this act, the department may use this appropriation as

1 follows:

2 (a) \$1,280 for use by the executive director's office for personal  
3 services related to administration and support;

4 (b) \$41,961 for use by the taxation business group for personal  
5 services related to taxation services, which amount is based on an  
6 assumption that the group will require an additional 0.8 FTE;

7 (c) \$3,615 for use by the taxation business group for operating  
8 expenses related to taxation services; and

9 (d) \$18,000 for tax administration IT system (GenTax) support.

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