

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0476.01 Esther van Mourik x4215

HOUSE BILL 21-1311

HOUSE SPONSORSHIP

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A BILL FOR AN ACT

101 CONCERNING INCOME TAX, AND, IN CONNECTION THEREWITH, MAKING
102 THE STATE'S CORPORATE INCOME TAX MORE UNIFORM
103 COMPARED TO OTHER STATES BY REPLACING THE CURRENT
104 COMBINED REPORTING STANDARD WITH THE MULTISTATE TAX
105 COMMISSION'S STANDARD AND MODIFYING THE COMPUTATION
106 OF THE RECEIPTS FACTOR TO MAKE IT MORE CONGRUENT WITH
107 THE UNITARY BUSINESS PRINCIPLE; REQUIRING ADDITIONS TO
108 COLORADO TAXABLE INCOME IN AMOUNTS RELATED TO
109 LIMITING CERTAIN FEDERAL ITEMIZED DEDUCTIONS, EXTENDING
110 THE LIMIT ON THE FEDERAL DEDUCTION ALLOWED UNDER
111 SECTION 199A OF THE INTERNAL REVENUE CODE, LIMITING THE
112 DEDUCTION FOR CONTRIBUTIONS MADE TO 529 PLANS,
113 DISALLOWING AN ENHANCED FEDERAL DEDUCTION FOR FOOD

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 AND BEVERAGE EXPENSES AT RESTAURANTS, AND REPEALING
102 THE CAPITAL GAINS SUBTRACTION; ALLOWING A SUBTRACTION
103 FROM COLORADO TAXABLE INCOME IN AMOUNTS RELATED TO
104 REPEALING THE CAP ON THE DEDUCTION FOR CERTAIN SOCIAL
105 SECURITY INCOME; REDUCING STATE INCOME TAX REVENUE BY
106 INCREASING THE EARNED INCOME TAX CREDIT, FUNDING THE
107 CHILD TAX CREDIT, AND ALLOWING A TEMPORARY INCOME TAX
108 CREDIT FOR A BUSINESS EQUAL TO A PERCENTAGE OF THE
109 CONVERSION COSTS TO CONVERT THE BUSINESS TO A
110 WORKER-OWNED COOP, AN EMPLOYEE STOCK OWNERSHIP PLAN,
111 OR AN EMPLOYEE OWNERSHIP TRUST; INCREASING STATE
112 INCOME TAX REVENUE BY PREVENTING CORPORATIONS FROM
113 USING TAX SHELTERS IN FOREIGN JURISDICTIONS FOR THE
114 PURPOSE OF TAX AVOIDANCE; AND CLARIFYING THAT CERTAIN
115 CAPTIVE INSURANCE COMPANIES ARE NOT EXEMPT FROM
116 INCOME TAX.

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.

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

1 that over the span of several years are revenue neutral; and

2 (b) The purposes of this act are:

3 (I) To conform Colorado's tax code with provisions commonly
4 used in other states, so that Colorado is less of an outlier around the
5 country in how taxpayers compute their taxes owed;

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

8 (III) To adjust the availability of certain tax expenditures so that
9 the availability and extent of tax expenditures are more fairly distributed
10 across all taxpayers.

11 **SECTION 2.** In Colorado Revised Statutes, 39-22-104, **amend**
12 (3)(o), (4)(f)(III), (4)(i)(II), and (4)(i)(III); and **add** (3)(p), (3)(q), and
13 (4)(i)(V) as follows:

14 **39-22-104. Income tax imposed on individuals, estates, and**
15 **trusts - single rate - report - legislative declaration - definitions -**
16 **repeal.** (3) There shall be added to the federal taxable income:

17 (o) For income tax years commencing on or after January 1, 2021,
18 but before ~~January 1, 2023~~, JANUARY 1, 2026, an amount equal to the
19 deduction allowed under section 199A of the internal revenue code for a
20 taxpayer who files a single return and whose adjusted gross income is
21 greater than five hundred thousand dollars, and for taxpayers who file a
22 joint return and whose adjusted gross income is greater than one million
23 dollars; except that this subsection (3)(o) does not apply to a taxpayer
24 who files a schedule F, profit or loss from farming, or successor form, as
25 an attachment to a federal income tax return.

26 (p) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
27 1, 2022, FOR TAXPAYERS WHO CLAIM ITEMIZED DEDUCTIONS AS DEFINED

1 IN SECTION 63 (d) OF THE INTERNAL REVENUE CODE AND WHO HAVE
2 FEDERAL ADJUSTED GROSS INCOME IN THE INCOME TAX YEAR EQUAL TO OR
3 EXCEEDING FOUR HUNDRED THOUSAND DOLLARS:

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

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

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

18 (II) THIS SUBSECTION (3)(q) IS REPEALED, EFFECTIVE DECEMBER
19 31, 2030.

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

21 (f) (III) (A) ~~For income tax years commencing on or after January~~
22 ~~1, 1989,~~ Amounts subtracted under this ~~paragraph (f) shall not exceed~~
23 SUBSECTION (4)(f) ARE CAPPED AT twenty thousand dollars per tax year;
24 except that ~~for income tax years commencing on or after January 1, 2000,~~
25 amounts subtracted under ~~subparagraph (I) of this paragraph (f) shall not~~
26 ~~exceed~~ SUBSECTION (4)(f)(I) OF THIS SECTION ARE CAPPED AT twenty-four
27 thousand dollars per tax year for any individual who is sixty-five years of

1 age or older at the close of the taxable year. FOR INCOME TAX YEARS
2 COMMENCING ON OR AFTER JANUARY 1, 2022, THE CAPS SET FORTH IN THIS
3 SUBSECTION (4)(f)(III)(A) ARE CALCULATED BY FIRST CONSIDERING THE
4 TOTAL SOCIAL SECURITY BENEFITS A TAXPAYER RECEIVED THAT WERE
5 INCLUDED IN FEDERAL TAXABLE INCOME AT THE CLOSE OF THE TAXABLE
6 YEAR AND ONLY IF THE TOTAL SOCIAL SECURITY BENEFITS RECEIVED THAT
7 YEAR WERE INCLUDED IN FEDERAL TAXABLE INCOME AT THE CLOSE OF THE
8 TAXABLE YEAR EXCEED THE CAPS SET FORTH IN THIS SUBSECTION
9 (4)(f)(III)(A), THEN THE CAPS ARE INCREASED TO AN AMOUNT EQUAL TO
10 THE SOCIAL SECURITY BENEFITS RECEIVED BY THE TAXPAYER THAT WERE
11 INCLUDED IN FEDERAL TAXABLE INCOME AT THE CLOSE OF THE TAXABLE
12 YEAR.

13 (B) For the purpose of determining the ~~exclusion~~ SUBTRACTION
14 allowed by this ~~paragraph (f)~~ SUBSECTION (4)(f), in the case of a joint
15 return, social security benefits included in federal taxable income shall be
16 apportioned in a ratio of the gross social security benefits of each
17 taxpayer to the total gross social security benefits of both taxpayers.

18 ~~For the purposes of this paragraph (f)~~ AS USED IN THIS
19 SUBSECTION (4)(f), "pensions and annuities" means retirement benefits
20 that are periodic payments attributable to personal services performed by
21 an individual prior to his or her retirement from employment and that
22 arise from an employer-employee relationship, from service in the
23 uniformed services of the United States, or from contributions to a
24 retirement plan ~~which~~ THAT are deductible for federal income tax
25 purposes. "Pensions and annuities" includes distributions from individual
26 retirement arrangements and self-employed retirement accounts to the
27 extent that such distributions are not deemed to be premature distributions

1 for federal income tax purposes, amounts received from fully matured
2 privately purchased annuities, social security benefits, and amounts paid
3 from any such sources by reason of permanent disability or death of the
4 person entitled to receive the benefits.

5 (i) (II) (A) For income tax years commencing on or after January
6 1, 2001, BUT BEFORE JANUARY 1, 2022, an amount equal to all payments
7 or contributions made during the taxable year under an advance payment
8 contract, to a savings trust account, or otherwise in connection with a
9 qualified state tuition program established by collegeinvest created in
10 section 23-3.1-203, ~~C.R.S.~~, or to a qualified state tuition program that is
11 affiliated with an educational institution in the state and that is established
12 and maintained pursuant to section 529 of the internal revenue code or
13 any successor section.

14 (B) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
15 1, 2022, AN AMOUNT EQUAL TO ALL PAYMENTS OR CONTRIBUTIONS, NOT
16 TO EXCEED TEN THOUSAND DOLLARS PER TAXPAYER PER BENEFICIARY FOR
17 A TAXPAYER WHO FILES A SINGLE RETURN, OR FIFTEEN THOUSAND
18 DOLLARS PER TAXPAYER PER BENEFICIARY FOR TAXPAYERS WHO FILE A
19 JOINT RETURN, MADE DURING THE TAXABLE YEAR UNDER AN ADVANCE
20 PAYMENT CONTRACT, TO A SAVINGS TRUST ACCOUNT, OR OTHERWISE IN
21 CONNECTION WITH A QUALIFIED STATE TUITION PROGRAM ESTABLISHED
22 BY COLLEGEINVEST CREATED IN SECTION 23-3.1-203, OR TO A QUALIFIED
23 STATE TUITION PROGRAM THAT IS AFFILIATED WITH AN EDUCATIONAL
24 INSTITUTION IN THE STATE AND THAT IS ESTABLISHED AND MAINTAINED
25 PURSUANT TO SECTION 529 OF THE INTERNAL REVENUE CODE OR ANY
26 SUCCESSOR SECTION. NOTWITHSTANDING SUBSECTION (4)(i)(III)(D) OF
27 THIS SECTION, COLLEGEINVEST MAY TREAT A CHANGE IN BENEFICIARY AS

1 A NONQUALIFYING DISTRIBUTION IF THE CHANGE WAS MADE FOR THE
2 PURPOSE OF EVADING THE LIMIT IN THIS SUBSECTION (4)(i)(II)(B).

3 (III) No ~~exclusion shall be~~ SUBTRACTION IS allowed pursuant to
4 this ~~paragraph (i)~~ SUBSECTION (4)(i) to the extent that such payments or
5 contributions are excluded from the taxpayer's federal taxable income for
6 the taxable year. Any ~~exclusion~~ SUBTRACTION taken under this ~~paragraph~~
7 ~~(i) shall be subject to recapture~~ SUBSECTION (4)(i) IS ADDED TO THE
8 ACCOUNT HOLDER'S TAXABLE INCOME in the taxable year or years in
9 which any distribution, refund, or any other withdrawal is made pursuant
10 to an advance payment contract, from a savings trust account, or
11 otherwise in connection with a qualified state tuition program for any
12 reason other than:

13 (A) To pay qualified higher education expenses;

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

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

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

22 (V) BEGINNING JANUARY 1, 2023, AND ANNUALLY THEREAFTER,
23 COLLEGEINVEST SHALL PROVIDE THE DEPARTMENT WITH A SECURE
24 ELECTRONIC REPORT CONTAINING INFORMATION FOR THE 529 QUALIFIED
25 STATE TUITION PROGRAM'S ACCOUNT OWNERS AND THIRD-PARTY
26 CONTRIBUTORS NECESSARY FOR THE ADMINISTRATION OF THE DEDUCTION
27 ALLOWED IN THIS SECTION. THE REPORT MUST INCLUDE:

1 (A) THE NAME AND SOCIAL SECURITY NUMBER, AND THE
2 CONTRIBUTION AMOUNT, OF ALL COLORADO TAXPAYERS MAKING A
3 CONTRIBUTION TO A COLLEGEINVEST ACCOUNT IN THE REPORTING TAX
4 YEAR COMMENCING ON OR AFTER JANUARY 1, 2022;

5 (B) THE NAME AND SOCIAL SECURITY NUMBER, AND THE
6 CONTRIBUTION AMOUNT, OF ANY OTHER COLORADO TAXPAYER MAKING
7 A CONTRIBUTION TO A COLLEGEINVEST ACCOUNT IN THE REPORTING TAX
8 YEAR COMMENCING ON OR AFTER JANUARY 1, 2022, WHO INTENDS TO
9 PARTICIPATE IN THE DEDUCTION ALLOWED IN THIS SECTION; AND

10 (C) THE NAME AND SOCIAL SECURITY NUMBER, AND THE
11 UNQUALIFIED DISTRIBUTION AMOUNT, OF EACH ACCOUNT HOLDER OF A
12 COLLEGEINVEST ACCOUNT WHO IS ALSO A COLORADO TAXPAYER MAKING
13 AN UNQUALIFIED DISTRIBUTION IN THE REPORTING TAX YEAR
14 COMMENCING ON OR AFTER JANUARY 1, 2022, AND THE REASON FOR THE
15 UNQUALIFIED DISTRIBUTION.

16 **SECTION 3.** In Colorado Revised Statutes, 39-22-123.5, **amend**
17 (2)(b) and (2.5)(b); and **add** (2.7) as follows:

18 **39-22-123.5. Earned income tax credit - not a refund of excess**
19 **state revenues - trigger - legislative declaration.** (2) (b) For an income
20 tax year commencing on or after January 1, 2022, a resident individual
21 who claims an earned income tax credit on the individual's federal tax
22 return is allowed an earned income tax credit against the taxes due under
23 this article 22 that is equal to ~~fifteen~~ TWENTY percent of the federal credit
24 that the resident individual claimed on his or her federal tax return for the
25 same tax year.

26 (2.5) (b) For income tax years commencing on or after January 1,
27 2022, a resident individual is allowed an earned income tax credit against

1 the taxes due under this article 22 that is equal to ~~fifteen~~ TWENTY percent
2 of the federal credit that the ~~taxpayer~~ RESIDENT INDIVIDUAL would have
3 been allowed, but for the fact that the resident individual, the resident
4 individual's spouse, or one or more of the resident individual's dependents
5 do not have a social security number that is valid for employment.

6 (2.7) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
7 JANUARY 1, 2022, A RESIDENT INDIVIDUAL IS ALLOWED AN EARNED
8 INCOME TAX CREDIT AGAINST THE TAXES DUE UNDER THIS ARTICLE 22
9 THAT IS EQUAL TO TWENTY PERCENT OF THE FEDERAL CREDIT THAT THE
10 RESIDENT INDIVIDUAL WOULD HAVE BEEN ALLOWED UNDER SECTION 32
11 (n)(1) OF THE INTERNAL REVENUE CODE, NOTWITHSTANDING THE DATE
12 LIMITATION SET FORTH IN SECTION 32 (n) OF THE INTERNAL REVENUE CODE
13 AS SPECIFIED IN SECTION 9621 (a) OF THE "AMERICAN RESCUE PLAN ACT
14 OF 2021", PUB.L. 117-2.

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

17 **39-22-129. Child tax credit - legislative declaration -**
18 **definitions.** (3) (a) EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS
19 SECTION, for ~~an income tax year specified in subsection (4) of this section~~
20 YEARS COMMENCING ON OR AFTER JANUARY 1, 2022, a resident individual
21 who claims a federal child tax credit for an eligible child on the
22 individual's federal tax return is allowed a child tax credit IN THE AMOUNT
23 SET FORTH IN SUBSECTION (3)(b) OR (3)(c) OF THIS SECTION against the
24 income taxes due under this ~~article~~ ARTICLE 22 for the same tax year.

25 (3.5) (a) EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION,
26 FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2022, A
27 RESIDENT INDIVIDUAL WHO COULD HAVE CLAIMED A FEDERAL CHILD TAX

1 CREDIT FOR AN ELIGIBLE CHILD ON THE INDIVIDUAL'S FEDERAL TAX
2 RETURN HAD SECTION 24 (h)(7) OF THE INTERNAL REVENUE CODE NOT
3 APPLIED TO THE DEFINITION OF QUALIFYING CHILD, IS ALLOWED A CHILD
4 TAX CREDIT IN THE AMOUNT SET FORTH IN SUBSECTION (3.5)(b) OR (3.5)(c)
5 OF THIS SECTION AGAINST THE INCOME TAXES DUE UNDER THIS ARTICLE
6 22 FOR THE SAME TAX YEAR.

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

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

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

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

23 (II) A RESIDENT INDIVIDUAL WHO FILES A SINGLE RETURN AND
24 WHOSE FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN
25 SEVENTY-FIVE THOUSAND DOLLARS IS NOT ALLOWED A CREDIT UNDER
26 THIS SECTION.

27 (c) (I) FOR TWO RESIDENT INDIVIDUALS WHO FILE A JOINT RETURN,

1 THE AMOUNT OF THE CREDIT IS EQUAL TO:

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

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

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

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

19 ~~(4) No credit is allowed under this section until the United States~~
20 ~~congress has enacted the "Marketplace Fairness Act of 2013", or any~~
21 ~~other act with substantially similar requirements, and the general~~
22 ~~assembly has enacted a law to implement the minimum simplification~~
23 ~~requirements in the congressional act. The credit allowed under this~~
24 ~~section may be claimed for any income tax year beginning with the~~
25 ~~income tax year during which the last prerequisite bill under this~~
26 ~~subsection (4) becomes law; except that, if the last bill becomes law after~~
27 ~~October 1 of a given year, the credit is first available in the next income~~

1 ~~tax year, and in no case may the credit be claimed prior to the 2014~~
2 ~~income tax year.~~ IN ANY INCOME TAX YEAR COMMENCING ON OR AFTER
3 JANUARY 1, 2022, IF THE CHANGES SPECIFIED IN SECTION 9611 OF THE
4 "AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 117-2, ARE NO LONGER
5 APPLICABLE TO THE FEDERAL CHILD TAX CREDIT ALLOWED IN SECTION 24
6 OF THE INTERNAL REVENUE CODE, THEN THE AMOUNT OF THE CHILD TAX
7 CREDIT ALLOWED IN THIS SECTION IS AS FOLLOWS:

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

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

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

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

27 (II) A RESIDENT INDIVIDUAL WHO FILES A SINGLE RETURN AND

1 WHOSE FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN
2 SEVENTY-FIVE THOUSAND DOLLARS IS NOT ALLOWED A CREDIT UNDER
3 THIS SECTION.

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

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

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

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

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

25 **SECTION 5.** In Colorado Revised Statutes, 39-22-301, **amend**
26 (1)(d)(I) introductory portion as follows:

27 **39-22-301. Corporate tax imposed.** (1) (d) (I) A tax is imposed

1 upon each ~~domestic C corporation and foreign C corporation~~ DOMESTIC
2 C CORPORATION, FOREIGN C CORPORATION, AND COMBINED GROUP, AS
3 THAT TERM IS DEFINED IN SECTION 39-22-303 (12)(b), doing business in
4 Colorado annually in an amount of the net income of such C corporation
5 OR COMBINED GROUP during the year derived from sources within
6 Colorado as set forth in the following schedule of rates:

7 **SECTION 6.** In Colorado Revised Statutes, 39-22-303, **amend**
8 (8), (9), (11), and (12); and **add** (11.5) as follows:

9 **39-22-303. Dividends in a combined report - foreign source**
10 **income - affiliated groups - definitions.** (8) (a) EXCEPT AS PROVIDED IN
11 SUBSECTION (8)(b) OF THIS SECTION, neither the taxpayer nor the
12 executive director shall include in a combined report any C corporation
13 ~~which~~ THAT conducts business outside the United States if eighty percent
14 or more of the C corporation's property and payroll, as determined by
15 factoring pursuant to section 24-60-1301, is assigned to locations outside
16 the United States. For the purpose of this subsection (8), "United States"
17 is restricted to the fifty states and the District of Columbia.

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

22 (II) A C CORPORATION IS PRESUMPTIVELY INCORPORATED IN A
23 FOREIGN JURISDICTION FOR THE PURPOSE OF TAX AVOIDANCE IF IT IS
24 INCORPORATED IN A LISTED JURISDICTION. A C CORPORATION IS NOT
25 INCORPORATED IN A FOREIGN JURISDICTION FOR THE PURPOSE OF TAX
26 AVOIDANCE IF THE TAXPAYER PROVES TO THE SATISFACTION OF THE
27 EXECUTIVE DIRECTOR THAT SUCH CORPORATION IS INCORPORATED IN A

1 LISTED JURISDICTION FOR REASONS THAT MEET THE ECONOMIC SUBSTANCE
2 DOCTRINE DESCRIBED IN SECTION 7701 (o) OF THE INTERNAL REVENUE
3 CODE.

4 (III) FOR PURPOSES OF THIS SUBSECTION (8)(b), THE TERM "C
5 CORPORATION" INCLUDES ANY BUSINESS ENTITY DEFINED AS A
6 "CORPORATION" UNDER THE INTERNAL REVENUE CODE AND THE RULES
7 AND REGULATIONS PROMULGATED PURSUANT THERETO, REGARDLESS OF
8 WHETHER SUCH ENTITY IS SUBJECT TO FEDERAL INCOME TAX. ANY
9 BUSINESS ENTITY INCLUDED IN A COMBINED GROUP UNDER SUBSECTION
10 (8)(b)(I) OF THIS SECTION IS DEEMED TO BE A "C CORPORATION" FOR
11 PURPOSES OF THIS ARTICLE 22, NOTWITHSTANDING SECTION 39-22-103
12 (2.5).

13 (9) (a) FOR INCOME TAX YEARS COMMENCING PRIOR TO JANUARY
14 1, 2022, dividends ~~which~~ THAT A C CORPORATION INCLUDABLE IN A COMBINED
15 REPORT RECEIVES FROM ANOTHER C CORPORATION ALSO INCLUDABLE IN THE
16 COMBINED REPORT SHALL BE EXCLUDED FROM TAXABLE INCOME.

17 (b) FOR INCOME TAX YEARS BEGINNING ON OR AFTER JANUARY 1,
18 2022, DIVIDENDS PAID BY ONE MEMBER OF THE COMBINED GROUP TO
19 ANOTHER MEMBER OF THE COMBINED GROUP ARE EXCLUDED FROM THAT
20 MEMBER'S INCOME TO THE EXTENT THOSE DIVIDENDS ARE PAID OUT OF THE
21 EARNINGS AND PROFITS OF THE UNITARY BUSINESS INCLUDED IN THE
22 COMBINED REPORT IN THE CURRENT OR AN EARLIER YEAR.

23 (11) (a) THIS SUBSECTION (11) APPLIES TO INCOME TAX YEARS
24 COMMENCING PRIOR TO JANUARY 1, 2022.

25 (a) (b) In the case of an affiliated group of C corporations, the
26 executive director may require, or the taxpayer may file, a combined
27 report, but such report shall only include those members of an affiliated

1 group of C corporations as to which any three of the following facts have
2 been in existence in the tax year and the two preceding tax years:

3 (I) Sales or leases by one affiliated C corporation to another
4 affiliated C corporation constitute fifty percent or more of the gross
5 operating receipts of the C corporation making the sales or leases; or,
6 purchases or leases from one affiliated C corporation by another affiliated
7 C corporation constitute fifty percent or more of the cost of goods sold or
8 leased by the C corporation making the purchases or leases. This
9 ~~subparagraph (I) shall~~ SUBSECTION (11)(b)(I) DOES not apply to the
10 following transactions between affiliated C corporations: The issuance of
11 commercial paper or other debt obligations and the use of the proceeds
12 therefrom to make loans or to purchase receivables between affiliated C
13 corporations.

14 (II) Five or more of the following services are provided by one or
15 more affiliated C corporations for the benefit of another affiliated C
16 corporation: Advertising and public relations services; accounting and
17 bookkeeping services; legal services; personnel services; sales services;
18 purchasing services; research and development services; insurance
19 procurement and servicing exclusive of employee benefit programs; and
20 employee benefit programs including pension, profit-sharing, and stock
21 purchase plans. A service shall be deemed provided if fifty percent or
22 more of the service is provided without provision for an "arm's length
23 charge" within the meaning of the United States treasury regulation
24 1.482-2 (b)(3).

25 (III) Twenty percent or more of the long-term debt of one
26 affiliated C corporation is owed to or guaranteed by another affiliated C
27 corporation. ~~For the purposes of this subparagraph (III) AS USED IN THIS~~

1 SUBSECTION (11)(b)(III), "long-term debt" means debt ~~which~~ THAT
2 becomes due more than one year after incurred.

3 (IV) One affiliated C corporation substantially uses the patents,
4 trademarks, service marks, logo-types, trade secrets, copyrights, or other
5 proprietary materials owned by another affiliated C corporation.

6 (V) Fifty percent or more of the members of the board of directors
7 of one affiliated C corporation are members of the board of directors or
8 are corporate officers of another affiliated C corporation.

9 (VI) Twenty-five percent or more of the twenty highest-ranking
10 officers of an affiliated C corporation are members of the board of
11 directors or are corporate officers of another affiliated C corporation.

12 ~~(b)~~(c) The net income of the affiliated C corporations ~~which~~ THAT
13 are to be included in a combined report shall be determined pursuant to
14 the rules and regulations promulgated pursuant to section 1502 of the
15 internal revenue code, as modified by section 39-22-304.

16 ~~(c)~~(d) If an affiliated C corporation is included in a combined
17 report, section 39-22-303.5, 39-22-303.6, or 39-22-303.7 shall be applied
18 with the following modifications:

19 (I) Intercompany transactions among the affiliated C corporations
20 shall be excluded from the numerator and denominator of the
21 apportionment calculation set forth in section 39-22-303.5, 39-22-303.6,
22 or 39-22-303.7; and

23 (II) The numerator of the apportionment calculation set forth in
24 section 39-22-303.5 or 39-22-303.6 shall be, to the extent applicable, the
25 sum of the sales of those affiliated C corporations doing business in
26 Colorado.

27 ~~(d)~~(e) The executive director shall not require returns to be made

1 on a consolidated basis, but an affiliated group of C corporations may
2 elect to file a consolidated return as otherwise provided in this article
3 ARTICLE 22.

4 ~~(e) (Deleted by amendment, L. 2008, p. 955, § 7, effective January~~
5 ~~1, 2009.)~~

6 (f) For purposes of this section, any C corporation formed under
7 the laws of any state or the United States with de minimis or no property
8 and payroll, as determined by factoring pursuant to section 24-60-1301,
9 shall be deemed to satisfy the requirements of ~~subsection (11)(a)~~
10 SUBSECTION (11)(b) of this section. The department of revenue shall
11 adopt rules to determine the manner in which the de minimis standard
12 will be uniformly applied to taxpayers.

13 (g) For the purpose of satisfying the requirements of ~~subsections~~
14 ~~(11)(a)(I) to (11)(a)(IV)~~ SUBSECTIONS (11)(b)(I) TO (11)(b)(IV) of this
15 section, the activities of any entity formed under the laws of any state or
16 the United States that is treated as a partnership pursuant to part 2 of this
17 article 22 shall be treated as activities performed by the member of the
18 affiliated group of C corporations that owns a portion of the entity if more
19 than fifty percent of the entity's ownership interest is held in the aggregate
20 by one or more members of the affiliated group. If the entity is owned by
21 more than one member of the affiliated group, the activities of the entity
22 shall be treated as activities performed by each member that owns a
23 portion of the entity.

24 (11.5) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
25 JANUARY 1, 2022:

26 (a) EXCEPT AS PROVIDED IN SUBSECTION (8) OF THIS SECTION, ALL
27 OF THE MEMBERS OF AN AFFILIATED GROUP OF C CORPORATIONS,

1 WHEREVER INCORPORATED OR DOMICILED, THAT ARE MEMBERS OF A
2 UNITARY BUSINESS SHALL FILE A COMBINED REPORT AS A COMBINED
3 GROUP.

4 (b) THE NET INCOME OF EACH MEMBER OF THE COMBINED GROUP,
5 AS DETERMINED UNDER SECTION 39-22-304, IS COMBINED, ELIMINATING
6 ITEMS OF INCOME, EXPENSE, GAIN, AND LOSS FROM TRANSACTIONS
7 BETWEEN MEMBERS OF THE COMBINED GROUP, APPLYING THE
8 CONSOLIDATED FILING RULES UNDER THE INTERNAL REVENUE CODE, AND
9 THE REGULATIONS THEREUNDER, AS IF THE COMBINED GROUP WAS A
10 CONSOLIDATED FILING GROUP. DIVIDENDS ARE ELIMINATED TO THE
11 EXTENT PERMITTED UNDER SUBSECTION (9)(b) OF THIS SECTION.

12 (c) (I) EXCEPT AS PROVIDED IN THIS SECTION, SECTION
13 39-22-303.6, AS MODIFIED, IF APPLICABLE, BY SECTION 39-22-303.7,
14 DETERMINES HOW INCOME OR LOSS, OR ITEMS MAKING UP INCOME OR
15 LOSS, ARE ALLOCATED AND APPORTIONED TO THIS STATE.

16 (II) THE COMBINED GROUP APPORTIONMENT FACTOR IS A
17 FRACTION DETERMINED UNDER SECTION 39-22-303.6, AS MODIFIED, IF
18 APPLICABLE, BY SECTION 39-22-303.7, WHERE THE NUMERATOR OF THE
19 FACTOR INCLUDES AMOUNTS SOURCED TO THE STATE FOR THE COMBINED
20 GROUP'S UNITARY BUSINESS, REGARDLESS OF THE SEPARATE ENTITY TO
21 WHICH THOSE FACTORS MAY BE ATTRIBUTED, AND THE DENOMINATOR OF
22 THE FACTOR INCLUDES AMOUNTS ASSOCIATED WITH THE COMBINED
23 GROUP'S UNITARY BUSINESS WHEREVER LOCATED.

24 (III) INTERCOMPANY TRANSACTIONS AMONG MEMBERS OF THE
25 COMBINED GROUP ARE EXCLUDED FROM THE NUMERATOR AND
26 DENOMINATOR OF THE APPORTIONMENT CALCULATION SET FORTH IN
27 SECTION 39-22-303.6, AS MODIFIED, IF APPLICABLE, BY SECTION

1 39-22-303.7.

2 (IV) IF A MEMBER OF THE COMBINED GROUP HOLDS A PARTNERSHIP
3 INTEREST FROM WHICH IT DERIVES APPORTIONABLE INCOME, AS THAT
4 TERM IS DEFINED IN SECTION 39-22-303.6 (1)(a), THE SHARE OF THE
5 PARTNERSHIP'S APPORTIONMENT FACTOR TO BE INCLUDED IN THE
6 APPORTIONMENT FACTOR OF THE COMBINED GROUP IS DETERMINED BY
7 MULTIPLYING THE PARTNERSHIP'S FACTOR BY A RATIO, THE NUMERATOR
8 OF WHICH IS THE AMOUNT OF THE PARTNERSHIP'S APPORTIONABLE INCOME
9 PROPERLY INCLUDED IN THE MEMBER'S INCOME, WHETHER RECEIVED
10 DIRECTLY OR INDIRECTLY, AND INCLUDING ANY GUARANTEED PAYMENTS,
11 AND THE DENOMINATOR OF WHICH IS THE AMOUNT OF THE PARTNERSHIP'S
12 TOTAL APPORTIONABLE INCOME. IF A MEMBER OF THE COMBINED GROUP
13 DIRECTLY OR INDIRECTLY RECEIVES AN ALLOCATION OF A PARTNERSHIP
14 TAX ITEM, SUCH AS AN ITEM OF LOSS OR EXPENSE, SO THAT IT IS NOT
15 POSSIBLE TO DETERMINE THE MEMBER'S SHARE OF APPORTIONABLE
16 INCOME, THE EXECUTIVE DIRECTOR MAY ADOPT RULES FOR INCLUSION OF
17 PARTICULAR PARTNERSHIP FACTORS, OR PORTIONS OF FACTORS, IN THE
18 COMBINED GROUP'S FACTORS.

19 (d) THE COMBINED REPORT MUST BE FILED UNDER THE NAME AND
20 FEDERAL EMPLOYER IDENTIFICATION NUMBER OF THE PARENT
21 CORPORATION IF THE PARENT IS A MEMBER OF THE COMBINED GROUP. IF
22 THERE IS NO PARENT CORPORATION, OR IF THE PARENT IS NOT A GROUP
23 MEMBER, THE MEMBERS OF THE COMBINED GROUP SHALL CHOOSE A
24 MEMBER TO FILE THE RETURN. THE FILING MEMBER MUST REMAIN THE
25 SAME IN SUBSEQUENT YEARS UNLESS THE FILING MEMBER IS NO LONGER
26 THE PARENT CORPORATION OR IS NO LONGER A MEMBER OF THE COMBINED
27 GROUP. THE RETURN MUST BE SIGNED BY A RESPONSIBLE OFFICER OF THE

1 FILING MEMBER ON BEHALF OF THE COMBINED GROUP MEMBERS AS
2 REQUIRED BY SECTION 39-22-601 (2).

3 (e) MEMBERS OF THE COMBINED GROUP ARE JOINTLY AND
4 SEVERALLY LIABLE FOR THE TAX LIABILITY OF THE COMBINED GROUP
5 INCLUDED IN THE COMBINED RETURN.

6 (f) THE EXECUTIVE DIRECTOR SHALL NOT REQUIRE RETURNS TO BE
7 MADE ON A CONSOLIDATED BASIS, BUT AN AFFILIATED GROUP OF C
8 CORPORATIONS MAY ELECT TO FILE A CONSOLIDATED RETURN AS
9 OTHERWISE PROVIDED IN THIS ARTICLE 22.

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

12 (a) "Affiliated group" means:

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

16 ~~(H)~~ (A) Stock possessing more than fifty percent of the voting
17 power of all classes of stock and more than fifty percent of each class of
18 the nonvoting stock of each of the includable C corporations, except the
19 common parent C corporation, is owned directly OR INDIRECTLY by one
20 or more of the other includable C corporations; and

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

25 ~~(b)~~ (II) As used in this ~~subsection (12)~~ SUBSECTION (12)(a), the
26 term "stock" does not include nonvoting stock ~~which~~ THAT is limited and
27 preferred as to dividends, employer securities, within the meaning of

1 section 409(1) of the internal revenue code, while such securities are held
2 under a tax credit employee stock ownership plan, or qualifying employer
3 securities, within the meaning of section 4975(e)(8) of the internal
4 revenue code, while such securities are held under an employee stock
5 ownership plan which meets the requirements of section 4975(e)(7) of the
6 internal revenue code.

7 (b) "COMBINED GROUP" MEANS THE AFFILIATED GROUP OF C
8 CORPORATIONS THAT MUST FILE A COMBINED REPORT AS REQUIRED BY
9 SUBSECTION (11.5) OF THIS SECTION.

10 (c) ~~Repeated.~~ "COMBINED REPORT" MEANS A TAX RETURN
11 REQUIRED TO BE FILED FOR THE COMBINED GROUP CONTAINING
12 INFORMATION REQUIRED IN THIS ARTICLE 22 AND ANY ADDITIONAL
13 INFORMATION REQUIRED BY THE EXECUTIVE DIRECTOR.

14 (d) "LISTED JURISDICTION" MEANS ANDORRA, ANGUILLA,
15 ANTIGUA AND BARBUDA, ARUBA, THE BAHAMAS, BAHRAIN, BARBADOS,
16 BELIZE, BERMUDA, BONAIRE, BRITISH VIRGIN ISLANDS, CAYMAN
17 ISLANDS, COOK ISLANDS, CURAÇAO, CYPRUS, DOMINICA, GIBRALTAR,
18 GRENADA, GUERNSEY-SARK-ALDERNEY, ISLE OF MAN, JERSEY, LIBERIA,
19 LIECHTENSTEIN, LUXEMBOURG, MALTA, MARSHALL ISLANDS,
20 MAURITIUS, MONACO, MONTSERRAT, NAURU, NIUE, PANAMA, SABA,
21 SAMOA, SAN MARINO, SEYCHELLES, SINT EUSTATIUS, SINT MAARTEN, ST.
22 KITTS AND NEVIS, ST. LUCIA, ST. VINCENT AND THE GRENADINES, TURKS
23 AND CAICOS ISLANDS, U.S. VIRGIN ISLANDS, AND VANUATU.

24 (e) "TAXPAYER" MEANS A C CORPORATION OR COMBINED GROUP
25 SUBJECT TO THE TAX IMPOSED BY SECTION 39-22-301.

26 (f) "UNITARY BUSINESS" MEANS A SINGLE ECONOMIC ENTERPRISE
27 MADE UP EITHER OF SEPARATE PARTS OF A SINGLE C CORPORATION OR OF

1 AN AFFILIATED GROUP OF C CORPORATIONS THAT ARE SUFFICIENTLY
2 INTERDEPENDENT, INTEGRATED, AND INTERRELATED THROUGH THEIR
3 ACTIVITIES SO AS TO PROVIDE A SYNERGY AND MUTUAL BENEFIT THAT
4 PRODUCES A SHARING OR EXCHANGE OF VALUE AMONG THEM AND A
5 SIGNIFICANT FLOW OF VALUE TO THE SEPARATE PARTS. A "UNITARY
6 BUSINESS" INCLUDES THAT PART OF THE BUSINESS THAT IS CONDUCTED BY
7 A TAXPAYER THROUGH THE TAXPAYER'S INTEREST IN A PARTNERSHIP,
8 WHETHER THE INTEREST IN THAT PARTNERSHIP IS HELD DIRECTLY OR
9 INDIRECTLY THROUGH A SERIES OF PARTNERSHIPS OR OTHER
10 PASS-THROUGH ENTITIES.

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

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

18 (b) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
19 JANUARY 1, 2022, IN THE CASE OF A C CORPORATION THAT IS NOT
20 INCORPORATED IN THE UNITED STATES, OR INCLUDED IN A CONSOLIDATED
21 FEDERAL CORPORATE INCOME TAX RETURN, "FEDERAL TAXABLE INCOME"
22 MEANS THE C CORPORATION'S INCOME OR LOSS AS DETERMINED FROM A
23 PROFIT AND LOSS STATEMENT PREPARED FOR THAT C CORPORATION ON A
24 SEPARATE ENTITY BASIS IN THE CURRENCY IN WHICH ITS BOOKS OF
25 ACCOUNT ARE REGULARLY MAINTAINED, PROVIDED THIS PROFIT AND LOSS
26 STATEMENT IS SUBJECT TO AN INDEPENDENT AUDIT, ADJUSTED TO
27 CONFORM TO THE ACCOUNTING PRINCIPLES GENERALLY ACCEPTED IN THE

1 UNITED STATES FOR THE PREPARATION OF SUCH STATEMENTS AND
2 FURTHER MODIFIED TO TAKE INTO ACCOUNT ANY BOOK-TAX ADJUSTMENTS
3 NECESSARY TO REFLECT FEDERAL AND STATE TAX LAW. INCOME OR LOSS
4 SO COMPUTED INCLUDES ALL INCOME WHEREVER DERIVED AND IS NOT
5 LIMITED TO ITEMS OF INCOME FROM SOURCES WITHIN THE UNITED STATES
6 OR EFFECTIVELY CONNECTED INCOME WITHIN THE MEANING OF THE
7 INTERNAL REVENUE CODE. ITEMS OF INCOME, EXPENSE, GAIN OR LOSS,
8 AND RELATED APPORTIONMENT FACTORS THAT ARE DENOMINATED IN A
9 FOREIGN CURRENCY MUST ALSO BE TRANSLATED INTO UNITED STATES
10 DOLLARS ON A REASONABLE BASIS CONSISTENTLY APPLIED YEAR-TO-YEAR
11 AND ENTITY-BY-ENTITY. UNREALIZED FOREIGN CURRENCY GAINS AND
12 LOSSES ARE NOT RECOGNIZED. INCOME APPORTIONED TO THIS STATE IS TO
13 BE EXPRESSED IN UNITED STATES DOLLARS.

14 (II) IN LIEU OF THE PROCEDURES SET FORTH IN SUBSECTION
15 (1)(b)(I) OF THIS SECTION, OR IN ANY CASE WHERE IT IS NECESSARY TO
16 FAIRLY AND CONSISTENTLY REFLECT THE INCOME OR LOSS AND
17 APPORTIONMENT FACTORS OF FOREIGN OPERATIONS INCLUDED IN THE
18 UNITARY BUSINESS, THE EXECUTIVE DIRECTOR MAY PROVIDE FOR OTHER
19 PROCEDURES TO REASONABLY APPROXIMATE THE INCOME OR LOSS AND
20 APPORTIONMENT FACTORS OF MEMBERS WITH FOREIGN OPERATIONS.

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

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

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

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

4 (j) Any amount treated as a section 78 dividend under section 78
5 of the internal revenue code EXCLUDING ANY AMOUNT TREATED UNDER
6 SECTION 78 AS A DIVIDEND RECEIVED FROM A C CORPORATION
7 INCORPORATED IN A FOREIGN JURISDICTION FOR THE PURPOSE OF TAX
8 AVOIDANCE PURSUANT TO SECTION 39-22-303 (8)(b)(II);

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

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

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

26 **39-22-518. Tax modification for net capital gains - repeal.**

27 (1) For income tax years commencing on or after July 1, 1995, BUT

1 BEFORE JANUARY 1, 2022, a modification, in the form of a reduction of
2 income taxable by the state of Colorado, shall be allowed to any qualified
3 taxpayer for the amount of income attributable to qualifying gains
4 receiving capital treatment earned by the qualified taxpayer during the
5 taxable year and included in federal taxable income.

6 (9) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2030.

7 **SECTION 9.** In Colorado Revised Statutes, **add** 39-22-542 as
8 follows:

9 **39-22-542. Tax credit for conversion costs for employee**
10 **business ownership - definitions - declaration - repeal. (1) Legislative**
11 **declaration.** (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES

12 THAT:

13 (I) THE PURPOSE OF THIS SECTION IS TO PROVIDE AN INCENTIVE
14 FOR SMALL BUSINESSES TO ESTABLISH EMPLOYEE STOCK OWNERSHIP
15 PLANS OR EMPLOYEE OWNERSHIP TRUSTS, OR TO CONVERT TO A
16 WORKER-OWNED COOPERATIVE;

17 (II) AN EMPLOYEE STOCK OWNERSHIP PLAN ALLOWS COMPANIES
18 TO SHARE OWNERSHIP WITH EMPLOYEES WITHOUT REQUIRING EMPLOYEES
19 TO INVEST THEIR OWN MONEY;

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

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

26 (b) IT IS THE GENERAL ASSEMBLY'S INTENT THAT THE COLORADO
27 OFFICE OF ECONOMIC DEVELOPMENT PROVIDE RELEVANT AND

1 ASCERTAINABLE METRICS AND COLLECT ANY NECESSARY DATA TO ALLOW
2 THE STATE AUDITOR TO MEASURE THE EFFECTIVENESS OF THE TAX CREDIT
3 IN THIS SECTION IN ACHIEVING THE PURPOSE SET FORTH IN SUBSECTION
4 (1)(a) OF THIS SECTION.

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

7 (a) "COLORADO OFFICE OF ECONOMIC DEVELOPMENT" OR "OFFICE"
8 MEANS THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT CREATED IN
9 SECTION 24-48.5-101.

10 (b) "CONVERSION COSTS" MEANS PROFESSIONAL SERVICES,
11 INCLUDING ACCOUNTING, LEGAL, AND BUSINESS ADVISORY SERVICES, AS
12 DETAILED IN THE GUIDELINES ISSUED BY THE OFFICE, FOR THE TRANSITION
13 OF A BUSINESS TO EMPLOYEE OWNERSHIP TRUST, AN EMPLOYEE STOCK
14 OWNERSHIP PLAN, OR A WORKER-OWNED COOPERATIVE.

15 (c) "DEPARTMENT" MEANS THE COLORADO DEPARTMENT OF
16 REVENUE.

17 (d) "EMPLOYEE OWNERSHIP TRUST" MEANS AN INDIRECT FORM OF
18 EMPLOYEE OWNERSHIP IN WHICH A TRUST HOLDS A CONTROLLING STAKE
19 IN A QUALIFIED BUSINESS AND BENEFITS ALL EMPLOYEES ON AN EQUAL
20 BASIS.

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

24 (f) "QUALIFIED BUSINESS" MEANS A TAXPAYER SUBJECT TO TAX
25 UNDER THIS ARTICLE 22, INCLUDING BUT NOT LIMITED TO A C
26 CORPORATION, S CORPORATION, LIMITED LIABILITY COMPANY,
27 PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, A SOLE PROPRIETORSHIP,

1 OR OTHER SIMILAR PASS-THROUGH ENTITY, THAT IS APPROVED BY THE
2 OFFICE FOR THE TAX INCENTIVES IN THIS SECTION.

3 (g) "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 TO A QUALIFIED BUSINESS FOR:

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) THE MAXIMUM AMOUNT OF ALL TAX CREDIT CERTIFICATES
20 THAT THE OFFICE MAY ISSUE IN ANY TAX YEAR IS TEN MILLION DOLLARS.

21 (4) A BUSINESS SHALL SUBMIT AN APPLICATION TO THE OFFICE FOR
22 THE ISSUANCE OF A CREDIT CERTIFICATE FOR THE CREDIT ALLOWED IN THIS
23 SECTION BY THE DEADLINES ESTABLISHED IN THE OFFICE'S GUIDELINES.
24 THE APPLICATION MUST INCLUDE INFORMATION, AS SET FORTH IN THE
25 OFFICE'S GUIDELINES, REGARDING THE TYPE OF CONVERSION THE BUSINESS
26 INTENDS TO UNDERTAKE, A LIST OF THE EXPECTED CONVERSION COSTS,
27 AND AN ESTIMATED AMOUNT, AS CALCULATED BY THE BUSINESS, OF THE

1 EXPECTED CONVERSION COSTS.

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

4 (a) APPLICATION REQUIREMENTS, INCLUDING A LIST OF THE DATA
5 THE OFFICE NEEDS TO MEET THE REQUIREMENTS IN SUBSECTION (11) OF
6 THIS SECTION;

7 (b) GUIDELINES REGARDING THE ISSUING OF CREDIT CERTIFICATES;

8 (c) DETAILED GUIDELINES REGARDING CONVERSION COSTS; AND

9 (d) GUIDELINES AND STANDARDS FOR CERTIFYING A BUSINESS AS
10 A QUALIFIED BUSINESS.

11 (6) (a) A RESERVATION OF TAX CREDITS IS PERMITTED FOR THE
12 TAX CREDIT ALLOWED IN THIS SECTION. IF THE OFFICE DETERMINES THAT
13 THE APPLICATION FILED UNDER SUBSECTION (4) OF THIS SECTION IS
14 COMPLETE, THE OFFICE SHALL DETERMINE WHETHER THE BUSINESS IS A
15 QUALIFIED BUSINESS, REVIEW THE LIST OF THE EXPECTED CONVERSION
16 COSTS, AND REVIEW THE ESTIMATED CONVERSION COSTS AS CALCULATED
17 BY THE BUSINESS. IF THE OFFICE APPROVES THE BUSINESS AS A QUALIFIED
18 BUSINESS, THE LIST OF EXPECTED CONVERSION COSTS, AND THE
19 ESTIMATED CONVERSION COSTS, THE OFFICE MAY RESERVE FOR THE
20 BENEFIT OF THE QUALIFIED BUSINESS AN ALLOCATION OF A TAX CREDIT
21 SUBJECT TO THE LIMITATION SPECIFIED IN SUBSECTION (3)(b) OF THIS
22 SECTION. THE OFFICE SHALL NOTIFY THE QUALIFIED BUSINESS IN WRITING
23 OF THE AMOUNT OF THE RESERVATION. THE RESERVATION OF A TAX
24 CREDIT DOES NOT ENTITLE THE QUALIFIED BUSINESS TO AN ISSUANCE OF
25 A TAX CREDIT CERTIFICATE UNTIL THE QUALIFIED BUSINESS COMPLIES
26 WITH ALL OF THE OTHER REQUIREMENTS SPECIFIED IN THIS SECTION FOR
27 THE ISSUANCE OF THE TAX CREDIT CERTIFICATE.

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

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

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

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

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

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

27 (b) FOLLOWING THE COMPLETION OF THE CONVERSION, THE

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

12 (c) NOTWITHSTANDING SUBSECTION (7)(b) OF THIS SECTION, THE
13 TOTAL AMOUNT OF THE TAX CREDIT CERTIFICATE ISSUED TO A QUALIFIED
14 BUSINESS SHALL NOT EXCEED THE AMOUNT OF THE TAX CREDIT
15 RESERVATION ISSUED UNDER SUBSECTION (6)(a) OF THIS SECTION.

16 (d) IF THE AMOUNT OF CERTIFIED COSTS INCURRED BY THE
17 QUALIFIED BUSINESS WOULD RESULT IN A QUALIFIED BUSINESS BEING
18 ISSUED AN AMOUNT OF TAX CREDITS THAT EXCEEDS THE AMOUNT OF TAX
19 CREDITS RESERVED FOR THE BUSINESS UNDER SUBSECTION (6)(a) OF THIS
20 SECTION, THE QUALIFIED BUSINESS MAY APPLY TO THE OFFICE FOR THE
21 ISSUANCE OF AN AMOUNT OF TAX CREDITS THAT EQUALS THE EXCESS. THE
22 QUALIFIED BUSINESS MUST SUBMIT ITS APPLICATION FOR ISSUANCE OF
23 SUCH EXCESS TAX CREDITS ON A FORM PRESCRIBED BY THE OFFICE. THE
24 OFFICE SHALL AUTOMATICALLY APPROVE THE APPLICATION, WHICH IT
25 SHALL ISSUE BY MEANS OF A SEPARATE CERTIFICATE, SUBJECT ONLY TO
26 THE AVAILABILITY OF TAX CREDITS AND THE PROVISIONS CONCERNING
27 PRIORITY PROVIDED IN SUBSECTION (6)(a) OF THIS SECTION.

1 (8) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE
2 INCOME TAXES DUE ON THE QUALIFIED BUSINESS'S INCOME, THE AMOUNT
3 OF THE CREDIT NOT USED TO OFFSET INCOME TAXES MUST BE REFUNDED
4 TO THE QUALIFIED BUSINESS.

5 (9) ANY TAX CREDITS ISSUED UNDER THIS SECTION TO A
6 PARTNERSHIP, A LIMITED LIABILITY COMPANY TAXED AS A PARTNERSHIP,
7 OR MULTIPLE OWNERS OF A PROPERTY MUST BE PASSED THROUGH TO THE
8 PARTNERS, MEMBERS, OR OWNERS, INCLUDING ANY NONPROFIT ENTITY
9 THAT IS A PARTNER, MEMBER, OR OWNER, RESPECTIVELY, ON A PRO RATA
10 BASIS ACCORDING TO THEIR OWNERSHIP PERCENTAGE.

11 (10) TO CLAIM THE INCOME TAX CREDIT ALLOWED IN THIS
12 SECTION, THE QUALIFIED BUSINESS SHALL ATTACH A COPY OF THE CREDIT
13 CERTIFICATE TO ITS STATE INCOME TAX RETURN. NO TAX CREDIT IS
14 ALLOWED UNDER THIS SECTION UNLESS THE QUALIFIED BUSINESS
15 PROVIDES THE COPY OF THE CREDIT CERTIFICATE WITH ITS FILED STATE
16 INCOME TAX RETURN. THE AMOUNT OF THE CREDIT THAT THE QUALIFIED
17 BUSINESS MAY CLAIM UNDER THIS SECTION IS THE AMOUNT STATED ON
18 THE TAX CREDIT CERTIFICATE.

19 (11) THE OFFICE SHALL, IN A SUFFICIENTLY TIMELY MANNER TO
20 ALLOW THE DEPARTMENT TO PROCESS RETURNS CLAIMING THE INCOME
21 TAX CREDIT ALLOWED IN THIS SECTION, PROVIDE THE DEPARTMENT WITH
22 AN ELECTRONIC REPORT OF EACH QUALIFIED BUSINESS THAT THE OFFICE
23 APPROVED FOR THE INCOME TAX CREDIT ALLOWED IN THIS SECTION FOR
24 THE PRECEDING CALENDAR YEAR THAT INCLUDES THE FOLLOWING
25 INFORMATION:

26 (a) THE TAXPAYER'S NAME; AND

27 (b) THE TAXPAYER'S SOCIAL SECURITY NUMBER OR THE

1 TAXPAYER'S COLORADO ACCOUNT NUMBER AND FEDERAL EMPLOYER
2 IDENTIFICATION NUMBER.

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

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

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

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

17 **39-22-112. Persons and organizations exempt from tax under**
18 **this article.** (1) A person or organization exempt from federal income
19 taxation under the provisions of the internal revenue code shall also be
20 exempt from the tax imposed by this ~~article~~ ARTICLE 22 in each year in
21 which such person or organization satisfies the requirements of the
22 internal revenue code for exemption from federal income taxation; except
23 that insurance companies subject to the tax imposed on gross premiums
24 by section 10-3-209 ~~C.R.S.~~, shall also be exempt from the tax imposed by
25 this ~~article~~ ARTICLE 22. DISQUALIFIED INSURANCE COMPANIES, AS
26 DEFINED IN SECTION 10-1-102 (6.5), SHALL NOT BE EXEMPT FROM THE TAX
27 IMPOSED BY THIS ARTICLE 22. If the exemption applicable to any person

1 or organization under the provisions of the internal revenue code is
2 limited or qualified in any manner, the exemption from taxes imposed by
3 this ~~article~~ ARTICLE 22 shall be limited or qualified in a similar manner.

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

6 **10-1-102. Definitions.** As used in this ~~title~~ TITLE 10, unless the
7 context otherwise requires:

8 (6.5) "DISQUALIFIED INSURANCE COMPANY" MEANS A COMPANY
9 LICENSED AS A CAPTIVE INSURANCE COMPANY UNDER THE LAWS OF THIS
10 STATE OR THE LAWS OF ANOTHER JURISDICTION WITH GROSS RECEIPTS FOR
11 THE TAXABLE YEAR THAT CONSIST FIFTY PERCENT OR LESS OF PREMIUMS
12 FROM ARRANGEMENTS THAT CONSTITUTE INSURANCE FOR FEDERAL
13 INCOME TAX PURPOSES.

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

16 **10-3-209. Tax on premiums collected - exemptions - penalties.**

17 (1) (a) All insurance companies writing business in this state, including,
18 without limitation, those defined in section 10-1-102 (6), EXCEPT A
19 DISQUALIFIED INSURANCE COMPANY, shall pay to the division of insurance
20 a tax on the gross amount of all premiums collected or contracted for on
21 policies or contracts of insurance covering property or risks in this state
22 during the previous calendar year, after deducting from such gross
23 amount the amount received as reinsurance premiums on business in this
24 state, and the amount refunded under credit life and credit accident and
25 health insurance policies on account of termination of insurance prior to
26 the maturity date of the indebtedness, and, in the case of companies other
27 than life, the amounts paid to policyholders as return premiums, which

1 shall include dividends or unabsorbed premiums or premium deposits
2 returned or credited to policyholders.

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

5 **10-6-128. Tax on premiums collected - exemptions - penalties.**

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

13 **SECTION 14. 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.