

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

ENGROSSED

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

LLS NO. 21-0476.01 Esther van Mourik x4215

HOUSE BILL 21-1311

HOUSE SPONSORSHIP

Sirota and Weissman,

SENATE SPONSORSHIP

Hansen and Moreno,

House Committees

Finance
Appropriations

Senate Committees

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**

*Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
Amended 2nd Reading
May 22, 2021

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.

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
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, 39-22-104, **amend**
9 (3)(o), (4)(f)(III), (4)(i)(II), and (4)(i)(III); and **add** (3)(p), (3)(q), and
10 (4)(i)(V) as follows:

11 **39-22-104. Income tax imposed on individuals, estates, and**
12 **trusts - single rate - report - legislative declaration - definitions -**
13 **repeal.** (3) There shall be added to the federal taxable income:

14 (o) For income tax years commencing on or after January 1, 2021,
15 but before ~~January 1, 2023~~, JANUARY 1, 2026, an amount equal to the
16 deduction allowed under section 199A of the internal revenue code for a
17 taxpayer who files a single return and whose adjusted gross income is
18 greater than five hundred thousand dollars, and for taxpayers who file a
19 joint return and whose adjusted gross income is greater than one million
20 dollars; except that this subsection (3)(o) does not apply to a taxpayer
21 who ~~files~~ IS REQUIRED TO FILE a schedule F, profit or loss from farming,
22 or successor form, as an attachment to a federal income tax return FOR
23 THE TAX YEAR IN WHICH THE TAXPAYER CLAIMS THE DEDUCTION
24 ALLOWED UNDER SECTION 199A OF THE INTERNAL REVENUE CODE.

25 (p) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
26 1, 2022, FOR TAXPAYERS WHO CLAIM ITEMIZED DEDUCTIONS AS DEFINED
27 IN SECTION 63 (d) OF THE INTERNAL REVENUE CODE AND WHO HAVE

1 FEDERAL ADJUSTED GROSS INCOME IN THE INCOME TAX YEAR EQUAL TO OR
2 EXCEEDING FOUR HUNDRED THOUSAND DOLLARS:

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

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

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

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

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

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

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

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

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

1 privately purchased annuities, social security benefits, and amounts paid
2 from any such sources by reason of permanent disability or death of the
3 person entitled to receive the benefits.

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

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

1 (C) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
2 1, 2023, THE FIFTEEN THOUSAND DOLLAR LIMIT SPECIFIED IN SUBSECTION
3 (4)(i)(II)(B) OF THIS SECTION IS ANNUALLY ADJUSTED FOR INFLATION
4 EACH INCOME TAX YEAR. FOR PURPOSES OF THIS SUBSECTION (4)(i)(II)(C),
5 "INFLATION" MEANS THE ANNUAL PERCENTAGE CHANGE IN THE UNITED
6 STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS,
7 CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL
8 ITEMS AND ALL URBAN CONSUMERS, OR ITS APPLICABLE PREDECESSOR OR
9 SUCCESSOR INDEX. THE DEPARTMENT OF REVENUE MAY ROUND THE
10 INFLATION-ADJUSTED LIMIT TO THE NEAREST HUNDRED DOLLARS.

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

21 (A) To pay qualified higher education expenses;

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

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

27 (D) AS A RESULT OF A CHANGE IN DESIGNATED BENEFICIARY, IF

1 THE CHANGE COMPLIES WITH SECTION 529 (c)(3)(C)(ii) OF THE INTERNAL
2 REVENUE CODE.

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

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

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

18 (C) THE NAME AND SOCIAL SECURITY NUMBER, AND THE
19 UNQUALIFIED DISTRIBUTION AMOUNT, OF EACH ACCOUNT HOLDER OF A
20 COLLEGEINVEST ACCOUNT WHO IS ALSO A COLORADO TAXPAYER MAKING
21 AN UNQUALIFIED DISTRIBUTION IN THE REPORTING TAX YEAR
22 COMMENCING ON OR AFTER JANUARY 1, 2022, AND THE REASON FOR THE
23 UNQUALIFIED DISTRIBUTION.

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

26 **39-22-123.5. Earned income tax credit - not a refund of excess**
27 **state revenues - trigger - legislative declaration - repeal.** (2) (b) For

1 ~~an income tax year~~ YEARS commencing on or after January 1, 2022, BUT
2 BEFORE JANUARY 1, 2023, AND INCOME TAX YEARS COMMENCING ON OR
3 AFTER JANUARY 1, 2026, a resident individual who claims an earned
4 income tax credit on the individual's federal tax return is allowed an
5 earned income tax credit against the taxes due under this article 22 that
6 is equal to ~~fifteen~~ TWENTY percent of the federal credit that the resident
7 individual claimed on his or her federal tax return for the same tax year.

8 (c) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
9 JANUARY 1, 2023, BUT BEFORE JANUARY 1, 2026, A RESIDENT INDIVIDUAL
10 WHO CLAIMS AN EARNED INCOME TAX CREDIT ON THE INDIVIDUAL'S
11 FEDERAL TAX RETURN IS ALLOWED AN EARNED INCOME TAX CREDIT
12 AGAINST THE TAXES DUE UNDER THIS ARTICLE 22 THAT IS EQUAL TO
13 TWENTY-FIVE PERCENT OF THE FEDERAL CREDIT THAT THE RESIDENT
14 INDIVIDUAL CLAIMED ON HIS OR HER FEDERAL TAX RETURN FOR THE SAME
15 TAX YEAR.

16 (II) THIS SUBSECTION (2)(c) IS REPEALED, EFFECTIVE DECEMBER
17 31, 2034.

18 (2.5) (b) For income tax years commencing on or after January 1,
19 2022, BUT BEFORE JANUARY 1, 2023, AND INCOME TAX YEARS
20 COMMENCING ON OR AFTER JANUARY 1, 2026, a resident individual is
21 allowed an earned income tax credit against the taxes due under this
22 article 22 that is equal to ~~fifteen~~ TWENTY percent of the federal credit that
23 the ~~taxpayer~~ RESIDENT INDIVIDUAL would have been allowed, but for the
24 fact that the resident individual, the resident individual's spouse, or one
25 or more of the resident individual's dependents do not have a social
26 security number that is valid for employment.

27 (d) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER

1 JANUARY 1, 2023, BUT BEFORE JANUARY 1, 2026, A RESIDENT INDIVIDUAL
2 IS ALLOWED AN EARNED INCOME TAX CREDIT AGAINST THE TAXES DUE
3 UNDER THIS ARTICLE 22 THAT IS EQUAL TO TWENTY-FIVE PERCENT OF THE
4 FEDERAL CREDIT THAT THE RESIDENT INDIVIDUAL WOULD HAVE BEEN
5 ALLOWED, BUT FOR THE FACT THAT THE RESIDENT INDIVIDUAL, THE
6 RESIDENT INDIVIDUAL'S SPOUSE, OR ONE OR MORE OF THE RESIDENT
7 INDIVIDUAL'S DEPENDENTS DO NOT HAVE A SOCIAL SECURITY NUMBER
8 THAT IS VALID FOR EMPLOYMENT.

9 (II) THIS SUBSECTION (2.5)(d) IS REPEALED, EFFECTIVE DECEMBER
10 31, 2034.

11 (2.7) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
12 JANUARY 1, 2022, BUT BEFORE JANUARY 1, 2023, AND INCOME TAX YEARS
13 COMMENCING ON OR AFTER JANUARY 1, 2026, A RESIDENT INDIVIDUAL IS
14 ALLOWED AN EARNED INCOME TAX CREDIT AGAINST THE TAXES DUE
15 UNDER THIS ARTICLE 22 THAT IS EQUAL TO TWENTY PERCENT OF THE
16 FEDERAL CREDIT THAT THE RESIDENT INDIVIDUAL WOULD HAVE BEEN
17 ALLOWED UNDER SECTION 32 (n)(1) OF THE INTERNAL REVENUE CODE,
18 NOTWITHSTANDING THE DATE LIMITATION SET FORTH IN SECTION 32 (n) OF
19 THE INTERNAL REVENUE CODE AS SPECIFIED IN SECTION 9621 (a) OF THE
20 "AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 117-2.

21 (b) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
22 JANUARY 1, 2023, BUT BEFORE JANUARY 1, 2026, A RESIDENT INDIVIDUAL
23 IS ALLOWED AN EARNED INCOME TAX CREDIT AGAINST THE TAXES DUE
24 UNDER THIS ARTICLE 22 THAT IS EQUAL TO TWENTY PERCENT OF THE
25 FEDERAL CREDIT THAT THE RESIDENT INDIVIDUAL WOULD HAVE BEEN
26 ALLOWED UNDER SECTION 32 (n)(1) OF THE INTERNAL REVENUE CODE,
27 NOTWITHSTANDING THE DATE LIMITATION SET FORTH IN SECTION 32 (n)

1 OF THE INTERNAL REVENUE CODE AS SPECIFIED IN SECTION 9621 (a) OF
2 THE "AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 117-2.

3 (II) THIS SUBSECTION (2.7)(b) IS REPEALED, EFFECTIVE DECEMBER
4 31, 2034.

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

7 39-22-129. Child tax credit - legislative declaration -
8 definitions. (3) (a) EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS
9 SECTION, for an income tax year specified in subsection (4) of this section
10 YEARS COMMENCING ON OR AFTER JANUARY 1, 2022, a resident individual
11 who claims a federal child tax credit for an eligible child on the
12 individual's federal tax return is allowed a child tax credit IN THE AMOUNT
13 SET FORTH IN SUBSECTION (3)(b) OR (3)(c) OF THIS SECTION against the
14 income taxes due under this ~~article~~ ARTICLE 22 for the same tax year.

15 (3.5) (a) EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION,
16 FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2022, A
17 RESIDENT INDIVIDUAL WHO COULD HAVE CLAIMED A FEDERAL CHILD TAX
18 CREDIT FOR AN ELIGIBLE CHILD ON THE INDIVIDUAL'S FEDERAL TAX
19 RETURN HAD SECTION 24 (h)(7) OF THE INTERNAL REVENUE CODE NOT
20 APPLIED TO THE DEFINITION OF QUALIFYING CHILD, IS ALLOWED A CHILD
21 TAX CREDIT IN THE AMOUNT SET FORTH IN SUBSECTION (3.5)(b) OR (3.5)(c)
22 OF THIS SECTION AGAINST THE INCOME TAXES DUE UNDER THIS ARTICLE
23 22 FOR THE SAME TAX YEAR.

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

26 (A) THIRTY PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT
27 THE RESIDENT INDIVIDUAL COULD HAVE CLAIMED ON THEIR FEDERAL TAX

1 RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUAL'S FEDERAL
2 ADJUSTED GROSS INCOME IS TWENTY-FIVE THOUSAND DOLLARS OR LESS;

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

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

13 (II) A RESIDENT INDIVIDUAL WHO FILES A SINGLE RETURN AND
14 WHOSE FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN
15 SEVENTY-FIVE THOUSAND DOLLARS IS NOT ALLOWED A CREDIT UNDER
16 THIS SECTION.

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

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

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

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

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

9 ~~(4) No credit is allowed under this section until the United States~~
10 ~~congress has enacted the "Marketplace Fairness Act of 2013", or any~~
11 ~~other act with substantially similar requirements, and the general~~
12 ~~assembly has enacted a law to implement the minimum simplification~~
13 ~~requirements in the congressional act. The credit allowed under this~~
14 ~~section may be claimed for any income tax year beginning with the~~
15 ~~income tax year during which the last prerequisite bill under this~~
16 ~~subsection (4) becomes law; except that, if the last bill becomes law after~~
17 ~~October 1 of a given year, the credit is first available in the next income~~
18 ~~tax year, and in no case may the credit be claimed prior to the 2014~~
19 ~~income tax year.~~ IN ANY INCOME TAX YEAR COMMENCING ON OR AFTER
20 JANUARY 1, 2022, IF THE CHANGES SPECIFIED IN SECTION 9611 OF THE
21 "AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 117-2, ARE NO LONGER
22 APPLICABLE TO THE FEDERAL CHILD TAX CREDIT ALLOWED IN SECTION 24
23 OF THE INTERNAL REVENUE CODE, THEN THE AMOUNT OF THE CHILD TAX
24 CREDIT ALLOWED IN THIS SECTION IS AS FOLLOWS:

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

27 (A) SIXTY PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT THE

1 RESIDENT INDIVIDUAL CLAIMED OR COULD HAVE CLAIMED ON THEIR
2 FEDERAL TAX RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUAL'S
3 FEDERAL ADJUSTED GROSS INCOME IS TWENTY-FIVE THOUSAND DOLLARS
4 OR LESS;

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

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

17 (II) A RESIDENT INDIVIDUAL WHO FILES A SINGLE RETURN AND
18 WHOSE FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN
19 SEVENTY-FIVE THOUSAND DOLLARS IS NOT ALLOWED A CREDIT UNDER
20 THIS SECTION.

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

23 (A) SIXTY PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT THE
24 RESIDENT INDIVIDUALS CLAIMED OR COULD HAVE CLAIMED ON THEIR
25 FEDERAL TAX RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUALS'
26 FEDERAL ADJUSTED GROSS INCOME IS THIRTY-FIVE THOUSAND DOLLARS
27 OR LESS;

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

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

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

15 ■ ■

16 **SECTION 5.** In Colorado Revised Statutes, 39-22-303, **amend**
17 **(8), (11)(c)(II), and (12) as follows:**


18 **39-22-303. Dividends in a combined report - foreign source**
19 **income - affiliated groups - definitions.** (8) (a) EXCEPT AS PROVIDED IN
20 SUBSECTION (8)(b) OF THIS SECTION, neither the taxpayer nor the
21 executive director shall include in a combined report any C corporation
22 ~~which~~ THAT conducts business outside the United States if eighty percent
23 or more of the C corporation's property and payroll, as determined by
24 factoring pursuant to section 24-60-1301, is assigned to locations outside
25 the United States. For the purpose of this subsection (8), "United States"
26 is restricted to the fifty states and the District of Columbia.

27 (b) (I) FOR TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2022,

1 A TAXPAYER SHALL INCLUDE IN THE COMBINED GROUP ANY MEMBER OF AN
2 AFFILIATED GROUP OF C CORPORATIONS THAT IS INCORPORATED IN A
3 FOREIGN JURISDICTION FOR THE PURPOSE OF TAX AVOIDANCE.

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

13 (III) FOR PURPOSES OF THIS SUBSECTION (8)(b), THE TERM "C
14 CORPORATION" INCLUDES ANY BUSINESS ENTITY DEFINED AS A
15 "CORPORATION" UNDER THE INTERNAL REVENUE CODE AND THE RULES
16 AND REGULATIONS PROMULGATED PURSUANT THERETO, REGARDLESS OF
17 WHETHER SUCH ENTITY IS SUBJECT TO FEDERAL INCOME TAX. ANY
18 BUSINESS ENTITY INCLUDED IN A COMBINED GROUP UNDER SUBSECTION
19 (8)(b)(I) OF THIS SECTION IS DEEMED TO BE A "C CORPORATION" FOR
20 PURPOSES OF THIS ARTICLE 22, NOTWITHSTANDING SECTION 39-22-103
21 (2.5).

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

26 (II) (A) FOR INCOME TAX YEARS COMMENCING BEFORE JANUARY
27 1, 2022, the numerator of the apportionment calculation set forth in

1 section 39-22-303.5 or 39-22-303.6 shall be, to the extent applicable, the
2 sum of the sales of those affiliated C corporations doing business in
3 Colorado.

4 (B) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
5 1, 2022, THE COMBINED GROUP APPORTIONMENT FACTOR IS A FRACTION
6 DETERMINED UNDER SECTION 39-22-303.6, AS MODIFIED, IF APPLICABLE,
7 BY SECTION 39-22-303.7, WHERE THE NUMERATOR OF THE FACTOR
8 INCLUDES AMOUNTS SOURCED TO THE STATE, REGARDLESS OF THE
9 SEPARATE ENTITY TO WHICH THOSE FACTORS MAY BE ATTRIBUTED, AND
10 THE DENOMINATOR OF THE FACTOR INCLUDES AMOUNTS ASSOCIATED WITH
11 THE COMBINED GROUP'S BUSINESS WHEREVER LOCATED.

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

14 (a) "Affiliated group" means:

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

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

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

27 (b) (II) As used in this ~~subsection (12)~~ SUBSECTION (12)(a), the

1 term "stock" does not include nonvoting stock ~~which~~ THAT is limited and
2 preferred as to dividends, employer securities, within the meaning of
3 section 409(1) of the internal revenue code, while such securities are held
4 under a tax credit employee stock ownership plan, or qualifying employer
5 securities, within the meaning of section 4975(e)(8) of the internal
6 revenue code, while such securities are held under an employee stock
7 ownership plan which meets the requirements of section 4975(e)(7) of the
8 internal revenue code.

9 [REDACTED]

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

20 [REDACTED]

21 **SECTION 6.** In Colorado Revised Statutes, 39-22-304, **amend**
22 (1) and (3)(j); and **add** (2)(j) and (3)(p) as follows:

23 **39-22-304. Net income of corporation - legislative declaration**
24 **- definitions - repeal.** (1) (a) The net income of a C corporation means
25 the C corporation's federal taxable income, as defined in the internal
26 revenue code, for the taxable year, with the modifications specified in this
27 section.

1 (b) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
2 JANUARY 1, 2022, IN THE CASE OF A C CORPORATION THAT IS NOT
3 INCORPORATED IN THE UNITED STATES, OR INCLUDED IN A CONSOLIDATED
4 FEDERAL CORPORATE INCOME TAX RETURN, "FEDERAL TAXABLE INCOME"
5 MEANS THE C CORPORATION'S INCOME OR LOSS AS DETERMINED FROM A
6 PROFIT AND LOSS STATEMENT PREPARED FOR THAT C CORPORATION ON A
7 SEPARATE ENTITY BASIS IN THE CURRENCY IN WHICH ITS BOOKS OF
8 ACCOUNT ARE REGULARLY MAINTAINED, PROVIDED THIS PROFIT AND LOSS
9 STATEMENT IS SUBJECT TO AN INDEPENDENT AUDIT, ADJUSTED TO
10 CONFORM TO THE ACCOUNTING PRINCIPLES GENERALLY ACCEPTED IN THE
11 UNITED STATES FOR THE PREPARATION OF SUCH STATEMENTS AND
12 FURTHER MODIFIED TO TAKE INTO ACCOUNT ANY BOOK-TAX ADJUSTMENTS
13 NECESSARY TO REFLECT FEDERAL AND STATE TAX LAW. INCOME OR LOSS
14 SO COMPUTED INCLUDES ALL INCOME WHEREVER DERIVED AND IS NOT
15 LIMITED TO ITEMS OF INCOME FROM SOURCES WITHIN THE UNITED STATES
16 OR EFFECTIVELY CONNECTED INCOME WITHIN THE MEANING OF THE
17 INTERNAL REVENUE CODE. ITEMS OF INCOME, EXPENSE, GAIN OR LOSS,
18 AND RELATED APPORTIONMENT FACTORS THAT ARE DENOMINATED IN A
19 FOREIGN CURRENCY MUST ALSO BE TRANSLATED INTO UNITED STATES
20 DOLLARS ON A REASONABLE BASIS CONSISTENTLY APPLIED YEAR-TO-YEAR
21 AND ENTITY-BY-ENTITY. UNREALIZED FOREIGN CURRENCY GAINS AND
22 LOSSES ARE NOT RECOGNIZED. INCOME APPORTIONED TO THIS STATE IS TO
23 BE EXPRESSED IN UNITED STATES DOLLARS.

24 (II) IN LIEU OF THE PROCEDURES SET FORTH IN SUBSECTION
25 (1)(b)(I) OF THIS SECTION, OR IN ANY CASE WHERE IT IS NECESSARY TO
26 FAIRLY AND CONSISTENTLY REFLECT THE INCOME OR LOSS AND
27 APPORTIONMENT FACTORS OF FOREIGN OPERATIONS INCLUDED IN A

1 COMBINED REPORT, THE EXECUTIVE DIRECTOR MAY PROVIDE FOR OTHER
2 PROCEDURES TO REASONABLY APPROXIMATE THE INCOME OR LOSS AND
3 APPORTIONMENT FACTORS OF MEMBERS WITH FOREIGN OPERATIONS.

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

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

11 (II) THIS SUBSECTION (2)(j) IS REPEALED, EFFECTIVE DECEMBER
12 31, 2030.

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

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

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

25 (II) THE AMOUNT OF ANY GLOBAL INTANGIBLE LOW-TAXED
26 INCOME INCLUDED IN FEDERAL TAXABLE INCOME PURSUANT TO SECTION
27 951A (a) OF THE INTERNAL REVENUE CODE WITH RESPECT TO A

1 CONTROLLED FOREIGN CORPORATION THAT IS A C CORPORATION
2 INCORPORATED IN A FOREIGN JURISDICTION FOR THE PURPOSE OF TAX
3 AVOIDANCE PURSUANT TO SECTION 39-22-303 (8)(b)(II), LESS ANY
4 AMOUNT DEDUCTED UNDER SECTION 250 (a)(1)(B) OF THE INTERNAL
5 REVENUE CODE WITH RESPECT TO SUCH GLOBAL INTANGIBLE LOW-TAXED
6 INCOME.

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

10 **39-22-518. Tax modification for net capital gains - definitions**
11 **- repeal.** (2) For the purposes of this section:

12 (a) (I) "Qualified taxpayer" FOR INCOME TAX YEARS COMMENCING
13 BEFORE JANUARY 1, 2022, means any taxpayer with no overdue state tax
14 liabilities and not in default on any contractual obligations owed to the
15 state or to any local government within Colorado at the time the
16 modification created under this section is claimed. THIS SUBSECTION
17 (2)(a)(I) IS REPEALED, EFFECTIVE DECEMBER 31, 2030.

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

27 (b) (I) "Qualifying gains receiving capital treatment" means the

1 amount of net capital gains, as defined in section 1222 (11) of the internal
2 revenue code, included in any qualified taxpayer's federal income tax
3 return and:

4 (B.5) FOR INCOME TAX YEARS COMMENCING BEFORE JANUARY 1,
5 2022, earned by the qualified taxpayer on either real or tangible personal
6 property located within Colorado that was acquired on or after May 9,
7 1994, but before June 4, 2009, or on tangible personal property only
8 located either within or outside Colorado that was acquired on or after
9 June 4, 2009, and either of which has been owned by the qualified
10 taxpayer for a holding period of at least five years prior to the date of the
11 transaction from which the net capital gains arise if the transaction from
12 which the net capital gains arise occurred during an income tax year that
13 commenced on or after January 1, 2010; except that no more than one
14 hundred thousand dollars of net capital gains described in this
15 ~~sub-subparagraph (B.5) shall be~~ SUBSECTION (2)(b)(I)(B.5) ARE
16 qualifying gains receiving capital treatment for any single income tax
17 year. THIS SUBSECTION (2)(b)(I)(B.5) IS REPEALED, EFFECTIVE DECEMBER
18 31, 2030.

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

1 INCOME TAX YEAR.

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

3 (C) "QUALIFIED REAL PROPERTY" MEANS REAL PROPERTY
4 LOCATED IN COLORADO THAT IS SOLD BY THE TAXPAYER AND GENERATES
5 THE QUALIFYING GAINS RECEIVING CAPITAL TREATMENT AND THAT IS
6 CLASSIFIED BY THE COUNTY PROPERTY TAX ASSESSOR IMMEDIATELY
7 PRECEDING THE SALE AS AGRICULTURAL LAND UNDER SECTION 39-1-102
8 (1.6)(a). IF REAL PROPERTY IS SOLD AS A TYPE OF INVESTMENT PACKAGE,
9 THEN, IN ORDER TO BE QUALIFIED REAL PROPERTY, AT LEAST
10 SEVENTY-FIVE PERCENT OF THE REAL PROPERTY SOLD IN THE PACKAGE
11 MUST BE CLASSIFIED BY THE COUNTY PROPERTY TAX ASSESSOR
12 IMMEDIATELY PRECEDING THE SALE AS AGRICULTURAL LAND UNDER
13 SECTION 39-1-102 (1.6)(a).

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

16 **39-22-542. Tax credit for conversion costs for employee**
17 **business ownership - definitions - declaration - repeal. (1) Legislative**
18 **declaration.** (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES
19 THAT:

20 (I) THE PURPOSE OF THIS SECTION IS TO PROVIDE AN INCENTIVE
21 FOR SMALL BUSINESSES TO ESTABLISH EMPLOYEE STOCK OWNERSHIP
22 PLANS OR EMPLOYEE OWNERSHIP TRUSTS, OR TO CONVERT TO A
23 WORKER-OWNED COOPERATIVE;

24 (II) AN EMPLOYEE STOCK OWNERSHIP PLAN ALLOWS COMPANIES
25 TO SHARE OWNERSHIP WITH EMPLOYEES WITHOUT REQUIRING EMPLOYEES
26 TO INVEST THEIR OWN MONEY;

27 (III) THIS SECTION ENCOURAGES SMALL BUSINESS OWNERS TO

1 SELL, THROUGH THREE DIFFERENT OPTIONS, THEIR BUSINESSES TO THE
2 VERY EMPLOYEES THAT CONTRIBUTED TO THEIR SUCCESS; AND

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

6 (b) IT IS THE GENERAL ASSEMBLY'S INTENT THAT THE COLORADO
7 OFFICE OF ECONOMIC DEVELOPMENT PROVIDE RELEVANT AND
8 ASCERTAINABLE METRICS AND COLLECT ANY NECESSARY DATA TO ALLOW
9 THE STATE AUDITOR TO MEASURE THE EFFECTIVENESS OF THE TAX CREDIT
10 IN THIS SECTION IN ACHIEVING THE PURPOSE SET FORTH IN SUBSECTION
11 (1)(a) OF THIS SECTION.

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

14 (a) "COLORADO OFFICE OF ECONOMIC DEVELOPMENT" OR "OFFICE"
15 MEANS THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT CREATED IN
16 SECTION 24-48.5-101.

17 (b) "CONVERSION COSTS" MEANS PROFESSIONAL SERVICES,
18 INCLUDING ACCOUNTING, LEGAL, AND BUSINESS ADVISORY SERVICES, AS
19 DETAILED IN THE GUIDELINES ISSUED BY THE OFFICE, FOR THE TRANSITION
20 OF A BUSINESS TO EMPLOYEE OWNERSHIP TRUST, AN EMPLOYEE STOCK
21 OWNERSHIP PLAN, OR A WORKER-OWNED COOPERATIVE. "CONVERSION
22 COSTS" INCLUDE COSTS TO AUDIT THE COST CERTIFICATION AS REQUIRED
23 IN SUBSECTION (7)(b) OF THIS SECTION.

24 (c) "DEPARTMENT" MEANS THE COLORADO DEPARTMENT OF
25 REVENUE.

26 (d) "EMPLOYEE OWNERSHIP TRUST" MEANS AN INDIRECT FORM OF
27 EMPLOYEE OWNERSHIP IN WHICH A TRUST HOLDS A CONTROLLING STAKE

1 IN A QUALIFIED BUSINESS AND BENEFITS ALL EMPLOYEES ON AN EQUAL
2 BASIS.

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

6 (f) "OWNER" MEANS THE OWNER OF A QUALIFIED BUSINESS BEFORE
7 A CONVERSION OCCURS.

8 (g) "QUALIFIED BUSINESS" MEANS A TAXPAYER SUBJECT TO TAX
9 UNDER THIS ARTICLE 22, INCLUDING BUT NOT LIMITED TO A C
10 CORPORATION, S CORPORATION, LIMITED LIABILITY COMPANY,
11 PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, A SOLE PROPRIETORSHIP,
12 OR OTHER SIMILAR PASS-THROUGH ENTITY, THAT IS NOT OWNED IN WHOLE
13 OR IN PART BY AN EMPLOYEE OWNERSHIP TRUST, THAT DOES NOT HAVE AN
14 EMPLOYEE STOCK OWNERSHIP PLAN, OR THAT IS NOT, IN WHOLE OR IN
15 PART, A WORKER-OWNED COOPERATIVE, AND THAT IS APPROVED BY THE
16 OFFICE FOR THE TAX INCENTIVES IN THIS SECTION.

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

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

25 (I) UP TO FIFTY PERCENT OF THE CONVERSION COSTS, NOT TO
26 EXCEED TWENTY-FIVE THOUSAND DOLLARS, INCURRED BY A QUALIFIED
27 BUSINESS FOR CONVERTING THE QUALIFIED BUSINESS TO A

1 WORKER-OWNED COOPERATIVE OR AN EMPLOYEE OWNERSHIP TRUST; OR

2 (II) UP TO FIFTY PERCENT OF THE CONVERSION COSTS, NOT TO
3 EXCEED ONE HUNDRED THOUSAND DOLLARS, INCURRED BY A QUALIFIED
4 BUSINESS FOR CONVERTING THE QUALIFIED BUSINESS TO AN EMPLOYEE
5 STOCK OWNERSHIP PLAN.

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

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

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

13 (4) A BUSINESS SHALL SUBMIT AN APPLICATION TO THE OFFICE FOR
14 THE ISSUANCE OF A CREDIT CERTIFICATE FOR THE CREDIT ALLOWED IN THIS
15 SECTION BY THE DEADLINES ESTABLISHED IN THE OFFICE'S GUIDELINES.
16 THE APPLICATION MUST INCLUDE INFORMATION, AS SET FORTH IN THE
17 OFFICE'S GUIDELINES, REGARDING THE TYPE OF CONVERSION THE BUSINESS
18 INTENDS TO UNDERTAKE, A LIST OF THE EXPECTED CONVERSION COSTS,
19 AND AN ESTIMATED AMOUNT, AS CALCULATED BY THE BUSINESS, OF THE
20 EXPECTED CONVERSION COSTS.

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

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

26 (II) GUIDELINES REGARDING THE ISSUING OF CREDIT
27 CERTIFICATES;

1 (III) DETAILED GUIDELINES REGARDING CONVERSION COSTS; AND
2 (IV) GUIDELINES AND STANDARDS FOR CERTIFYING A BUSINESS AS
3 A QUALIFIED BUSINESS.

4 (b) BEFORE THE OFFICE BEGINS TO PROVIDE RESERVATIONS OF TAX
5 CREDITS UNDER SUBSECTION (6) OF THIS SECTION, THE OFFICE SHALL
6 PROVIDE THE FINANCE COMMITTEES OF THE HOUSE OF REPRESENTATIVES
7 AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, WITH A WRITTEN
8 REPORT SETTING FORTH THE CLEAR, RELEVANT, AND ASCERTAINABLE
9 METRICS AND DATA REQUIREMENTS THAT THE OFFICE WILL TRACK UNDER
10 SUBSECTION (12) OF THIS SECTION IN ORDER TO ALLOW THE GENERAL
11 ASSEMBLY AND THE STATE AUDITOR TO MEASURE THE EFFECTIVENESS OF
12 THE TAX EXPENDITURE ALLOWED IN THIS SECTION IN ACHIEVING THE
13 PURPOSE SET FORTH IN SUBSECTION (1)(a) OF THIS SECTION.

14 (6) (a) (I) AFTER THE OFFICE PROVIDES THE WRITTEN REPORT
15 REQUIRED IN SUBSECTION (5)(b) OF THIS SECTION, A RESERVATION OF TAX
16 CREDITS IS PERMITTED FOR THE TAX CREDIT ALLOWED IN THIS SECTION. IF
17 THE OFFICE DETERMINES THAT THE APPLICATION FILED UNDER SUBSECTION
18 (4) OF THIS SECTION IS COMPLETE, THE OFFICE SHALL DETERMINE
19 WHETHER THE BUSINESS IS A QUALIFIED BUSINESS, REVIEW THE LIST OF
20 THE EXPECTED CONVERSION COSTS, AND REVIEW THE ESTIMATED
21 CONVERSION COSTS AS CALCULATED BY THE BUSINESS. IF THE OFFICE
22 APPROVES THE BUSINESS AS A QUALIFIED BUSINESS, THE LIST OF EXPECTED
23 CONVERSION COSTS, AND THE ESTIMATED CONVERSION COSTS, THE OFFICE
24 MAY RESERVE FOR THE BENEFIT OF THE QUALIFIED BUSINESS OR THE
25 OWNER AN ALLOCATION OF A TAX CREDIT SUBJECT TO THE LIMITATION
26 SPECIFIED IN SUBSECTION (3)(b) OF THIS SECTION. THE OFFICE SHALL
27 NOTIFY THE QUALIFIED BUSINESS IN WRITING OF THE AMOUNT OF THE

1 RESERVATION. THE RESERVATION OF A TAX CREDIT DOES NOT ENTITLE THE
2 QUALIFIED BUSINESS OR THE OWNER TO AN ISSUANCE OF A TAX CREDIT
3 CERTIFICATE UNTIL THE QUALIFIED BUSINESS COMPLIES WITH ALL OF THE
4 OTHER REQUIREMENTS SPECIFIED IN THIS SECTION FOR THE ISSUANCE OF
5 THE TAX CREDIT CERTIFICATE.

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

14 (b) (I) THE OFFICE MUST RESERVE TAX CREDITS IN THE ORDER IN
15 WHICH IT RECEIVES COMPLETED APPLICATIONS THAT COMPLY WITH THE
16 REQUIREMENTS OF THIS SECTION AND THE GUIDELINES DEVELOPED BY THE
17 OFFICE. THE OFFICE SHALL PROVIDE WRITTEN NOTICE OF ANY
18 RESERVATION OF TAX CREDITS AUTHORIZED BY THIS SUBSECTION (6) OR
19 DISAPPROVE THE APPLICATION WITHIN A REASONABLE TIME, NOT TO
20 EXCEED NINETY DAYS AFTER THE FILING OF A COMPLETED APPLICATION.

21 (II) THE OFFICE SHALL STAMP EACH COMPLETED APPLICATION
22 WITH THE DATE AND TIME THE APPLICATION WAS RECEIVED AND SHALL
23 REVIEW THE APPLICATION ON THE BASIS OF THE ORDER IN WHICH IT WAS
24 SUBMITTED BY DATE AND TIME.

25 (III) ANY APPLICATION DISAPPROVED BY THE OFFICE WILL BE
26 REMOVED FROM THE REVIEW PROCESS, AND THE OFFICE SHALL NOTIFY THE
27 BUSINESS IN WRITING OF THE DECISION TO REMOVE ITS APPLICATION FROM

1 THE REVIEW PROCESS. DISAPPROVED APPLICATIONS LOSE THEIR PRIORITY
2 IN THE REVIEW PROCESS. A BUSINESS MAY RESUBMIT A DISAPPROVED
3 APPLICATION, BUT SUCH RESUBMITTED APPLICATION IS DEEMED TO BE A
4 NEW SUBMISSION FOR PURPOSES OF THE PRIORITY PROCEDURES DESCRIBED
5 IN THIS SUBSECTION (6)(b).

6 (c) IF, FOR ANY CALENDAR YEAR, THE TOTAL AMOUNT OF
7 RESERVATIONS FOR TAX CREDITS THE OFFICE HAS APPROVED IS EQUAL TO
8 THE TOTAL AMOUNT OF TAX CREDITS AVAILABLE FOR RESERVATION
9 DURING THAT CALENDAR YEAR, THE OFFICE SHALL NOTIFY ALL BUSINESSES
10 WHO HAVE SUBMITTED APPLICATIONS THEN AWAITING APPROVAL THAT NO
11 ADDITIONAL APPROVALS OF APPLICATIONS FOR RESERVATIONS OF TAX
12 CREDITS WILL BE GRANTED DURING THAT CALENDAR YEAR. THE OFFICE
13 SHALL ADDITIONALLY NOTIFY EACH BUSINESS OF THE PRIORITY NUMBER
14 GIVEN TO THE BUSINESS'S APPLICATION THEN AWAITING APPROVAL. THE
15 APPLICATIONS WILL REMAIN IN PRIORITY STATUS FOR TWO YEARS FROM
16 THE DATE OF THE ORIGINAL APPLICATION AND WILL BE CONSIDERED FOR
17 RESERVATIONS OF TAX CREDITS IN THE PRIORITY ORDER ESTABLISHED IN
18 THIS SUBSECTION (6) IN THE EVENT THAT ADDITIONAL CREDITS BECOME
19 AVAILABLE RESULTING FROM THE RESCISSION OF APPROVALS UNDER
20 SUBSECTION (7)(a) OF THIS SECTION OR BECAUSE A NEW ALLOCATION OF
21 TAX CREDITS FOR A CALENDAR YEAR BECOMES AVAILABLE.

22 (7) (a) ANY QUALIFIED BUSINESS WITH RESPECT TO WHICH THE
23 OFFICE HAS MADE A RESERVATION OF TAX CREDITS UNDER SUBSECTION (6)
24 OF THIS SECTION SHALL INCUR NOT LESS THAN TWENTY PERCENT OF THE
25 ESTIMATED CONVERSION COSTS NOT LATER THAN EIGHTEEN MONTHS
26 AFTER THE DATE OF THE WRITTEN NOTICE FROM THE OFFICE TO THE
27 QUALIFIED BUSINESS GRANTING THE RESERVATION OF TAX CREDITS. THE

1 QUALIFIED BUSINESS SHALL SUBMIT EVIDENCE OF COMPLIANCE WITH
2 THE PROVISIONS OF THIS SUBSECTION (7)(a). IF THE OFFICE DETERMINES
3 THAT A QUALIFIED BUSINESS HAS FAILED TO COMPLY WITH THE
4 REQUIREMENTS OF THIS SUBSECTION (7)(a), THE OFFICE MAY RESCIND THE
5 WRITTEN NOTICE IT PREVIOUSLY GAVE THE BUSINESS OR THE OWNER
6 APPROVING THE RESERVATION OF TAX CREDITS AND, IF SO, THE TOTAL
7 AMOUNT OF TAX CREDITS MADE AVAILABLE FOR THE CALENDAR YEAR FOR
8 WHICH RESERVATIONS MAY BE GRANTED MUST BE INCREASED BY THE
9 AMOUNT OF THE TAX CREDITS RESCINDED. THE OFFICE SHALL PROMPTLY
10 NOTIFY ANY QUALIFIED BUSINESS OR THE OWNER WHOSE RESERVATION OF
11 TAX CREDITS HAS BEEN RESCINDED AND, UPON RECEIPT OF THE NOTICE,
12 THE QUALIFIED BUSINESS MAY SUBMIT A NEW APPLICATION.

13 (b) (I) FOLLOWING THE COMPLETION OF THE CONVERSION, THE
14 QUALIFIED BUSINESS SHALL NOTIFY THE OFFICE THAT THE CONVERSION
15 HAS BEEN COMPLETED AND SHALL PROVIDE THE OFFICE WITH A COST
16 CERTIFICATION OF THE ESTIMATED CONVERSION COSTS. THE COST
17 CERTIFICATION MUST BE AUDITED BY A LICENSED CERTIFIED PUBLIC
18 ACCOUNTANT THAT IS NOT AFFILIATED WITH THE QUALIFIED BUSINESS.
19 THE OFFICE SHALL REVIEW THE COST CERTIFICATION, AND WITHIN NINETY
20 DAYS AFTER RECEIPT OF THE COST CERTIFICATION, THE OFFICE SHALL
21 CERTIFY THE CONVERSION COSTS AND ISSUE A TAX CREDIT CERTIFICATE IN
22 THE AMOUNTS ALLOWED IN SUBSECTION (3) OF THIS SECTION. THE OFFICE
23 SHALL PROMPTLY NOTIFY THE QUALIFIED BUSINESS OF ANY DISALLOWED
24 CONVERSION COSTS.

25 (II) IF A CONVERSION IS A STAGED CONVERSION AS SET FORTH IN
26 SUBSECTION (6)(a)(II) OF THIS SECTION, AND THE QUALIFIED BUSINESS
27 MEETS THE REQUIREMENTS IN THIS SUBSECTION (7), THE OFFICE SHALL

1 ISSUE PRO RATA TAX CREDIT CERTIFICATES TO A QUALIFIED BUSINESS OR
2 THE OWNER BASED ON THE PERCENT OF THE CONVERSION COMPLETED
3 DURING EACH TAX YEAR.

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

8 (d) IF THE AMOUNT OF CERTIFIED COSTS INCURRED BY THE
9 QUALIFIED BUSINESS WOULD RESULT IN A QUALIFIED BUSINESS OR THE
10 OWNER BEING ISSUED AN AMOUNT OF TAX CREDITS THAT EXCEEDS THE
11 AMOUNT OF TAX CREDITS RESERVED FOR THE BUSINESS UNDER
12 SUBSECTION (6)(a) OF THIS SECTION, THE QUALIFIED BUSINESS MAY APPLY
13 TO THE OFFICE FOR THE ISSUANCE OF AN AMOUNT OF TAX CREDITS THAT
14 EQUALS THE EXCESS. THE QUALIFIED BUSINESS MUST SUBMIT ITS
15 APPLICATION FOR ISSUANCE OF SUCH EXCESS TAX CREDITS ON A FORM
16 PRESCRIBED BY THE OFFICE. UNLESS THE OFFICE IS CONCERNED THE
17 APPLICATION IT RECEIVED UNDER THIS SUBSECTION (7)(d) IS FRAUDULENT,
18 THE OFFICE SHALL AUTOMATICALLY APPROVE THE APPLICATION, WHICH IT
19 SHALL ISSUE BY MEANS OF A SEPARATE CERTIFICATE, SUBJECT ONLY TO
20 THE AVAILABILITY OF TAX CREDITS AND THE PROVISIONS CONCERNING
21 PRIORITY PROVIDED IN SUBSECTION (6)(a) OF THIS SECTION.

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

26 (9) ANY TAX CREDITS ISSUED UNDER THIS SECTION TO A
27 PARTNERSHIP OR AN S CORPORATION MUST BE PASSED THROUGH TO THE

1 PARTNERS, MEMBERS, OR OWNERS, INCLUDING ANY NONPROFIT ENTITY
2 THAT IS A PARTNER, MEMBER, OR OWNER, RESPECTIVELY, ON A PRO RATA
3 BASIS ACCORDING TO THEIR OWNERSHIP PERCENTAGE.

4 (10) TO CLAIM THE INCOME TAX CREDIT ALLOWED IN THIS
5 SECTION, THE QUALIFIED BUSINESS OR THE OWNER SHALL ATTACH A COPY
6 OF THE CREDIT CERTIFICATE TO ITS STATE INCOME TAX RETURN. NO TAX
7 CREDIT IS ALLOWED UNDER THIS SECTION UNLESS THE QUALIFIED BUSINESS
8 OR THE OWNER PROVIDES THE COPY OF THE CREDIT CERTIFICATE WITH ITS
9 FILED STATE INCOME TAX RETURN. THE AMOUNT OF THE CREDIT THAT THE
10 QUALIFIED BUSINESS MAY CLAIM UNDER THIS SECTION IS THE AMOUNT
11 STATED ON THE TAX CREDIT CERTIFICATE.

12 (11) THE OFFICE SHALL, IN A SUFFICIENTLY TIMELY MANNER TO
13 ALLOW THE DEPARTMENT TO PROCESS RETURNS CLAIMING THE INCOME
14 TAX CREDIT ALLOWED IN THIS SECTION, PROVIDE THE DEPARTMENT WITH
15 AN ELECTRONIC REPORT OF EACH QUALIFIED BUSINESS OR THE OWNER
16 THAT THE OFFICE APPROVED FOR THE INCOME TAX CREDIT ALLOWED IN
17 THIS SECTION FOR THE PRECEDING CALENDAR YEAR THAT INCLUDES THE
18 FOLLOWING INFORMATION:

19 (a) THE TAXPAYER'S NAME; AND

20 (b) THE TAXPAYER'S SOCIAL SECURITY NUMBER OR THE
21 TAXPAYER'S COLORADO ACCOUNT NUMBER AND FEDERAL EMPLOYER
22 IDENTIFICATION NUMBER.

23 (12) THE OFFICE SHALL MAINTAIN A DATABASE OF ANY
24 INFORMATION NECESSARY TO EVALUATE THE EFFECTIVENESS OF THE TAX
25 CREDIT ALLOWED IN THIS SECTION IN MEETING THE PURPOSES SET FORTH
26 IN SUBSECTION (1)(a) OF THIS SECTION, AND SHALL PROVIDE SUCH
27 INFORMATION, AND ANY OTHER INFORMATION THAT MAY BE NEEDED, TO

1 THE STATE AUDITOR AS PART OF THE STATE AUDITOR'S EVALUATION OF
2 TAX EXPENDITURES UNDER SECTION 39-21-305.

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

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

8 **SECTION 9.** In Colorado Revised Statutes, 39-22-112, **amend**
9 (1) as follows:

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

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

26 **10-1-102. Definitions.** As used in this ~~title~~ TITLE 10, unless the
27 context otherwise requires:

1 (6.5) "DISQUALIFIED INSURANCE COMPANY" MEANS A COMPANY
2 LICENSED AS A CAPTIVE INSURANCE COMPANY UNDER THE LAWS OF THIS
3 STATE OR THE LAWS OF ANOTHER JURISDICTION WITH GROSS RECEIPTS FOR
4 THE TAXABLE YEAR THAT CONSIST FIFTY PERCENT OR LESS OF PREMIUMS
5 FROM ARRANGEMENTS THAT CONSTITUTE INSURANCE FOR FEDERAL
6 INCOME TAX PURPOSES.

7 **SECTION 11.** In Colorado Revised Statutes, 10-3-209, **amend**
8 (1)(a) as follows:

9 **10-3-209. Tax on premiums collected - exemptions - penalties.**

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

23 **SECTION 12.** In Colorado Revised Statutes, 10-6-128, **amend**
24 (1) as follows:

25 **10-6-128. Tax on premiums collected - exemptions - penalties.**

26 (1) All captive insurance companies doing business in this state, EXCEPT
27 A DISQUALIFIED INSURANCE COMPANY, shall pay to the division of

1 insurance an annual tax on the gross amount of all premiums collected,
2 less premiums or premium credits returned to policyholders, on policies
3 or contracts of insurance covering property or risks in this state and on
4 risks and property situated in any other state in which the insurer has not
5 paid premium tax.

6 **SECTION 13. Appropriation.** For the 2021-22 state fiscal year,
7 \$68,041 is appropriated to the office of the governor for use by economic
8 development programs. This appropriation is from the general fund and
9 is based on an assumption that the office will require an additional 0.5
10 FTE. To implement this act, the office may use this appropriation for
11 employee ownership tax credit administration.

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