

## CHAPTER 298

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**TAXATION**

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**HOUSE BILL 21-1311**

BY REPRESENTATIVE(S) Sirota and Weissman, Amabile, Bacon, Bennett, Bird, Boesenecker, Caraveo, Cutter, Duran, Esgar, Gonzales-Gutierrez, Gray, Hooton, Jackson, Jodeh, Kennedy, Kipp, Lontine, McCormick, Michaelson Jenet, Mullica, Ortiz, Snyder, Titone, Valdez A., Woodrow, Herod, McCluskie, Ricks;  
also SENATOR(S) Hansen and Moreno, Bridges, Buckner, Danielson, Fenberg, Fields, Gonzales, Kolker, Lee, Pettersen, Story, Garcia.

**AN ACT**

**CONCERNING INCOME TAX, AND, IN CONNECTION THEREWITH, REQUIRING ADDITIONS TO COLORADO TAXABLE INCOME IN AMOUNTS RELATED TO LIMITING CERTAIN FEDERAL ITEMIZED DEDUCTIONS, EXTENDING THE LIMIT ON THE FEDERAL DEDUCTION ALLOWED UNDER SECTION 199A OF THE INTERNAL REVENUE CODE, LIMITING THE DEDUCTION FOR CONTRIBUTIONS MADE TO 529 PLANS, DISALLOWING AN ENHANCED FEDERAL DEDUCTION FOR FOOD AND BEVERAGE EXPENSES AT RESTAURANTS, AND LIMITING THE CAPITAL GAINS SUBTRACTION; ALLOWING A SUBTRACTION FROM COLORADO TAXABLE INCOME IN AMOUNTS RELATED TO REPEALING THE CAP ON THE DEDUCTION FOR CERTAIN SOCIAL SECURITY INCOME; REDUCING STATE INCOME TAX REVENUE BY INCREASING THE EARNED INCOME TAX CREDIT, FUNDING THE CHILD TAX CREDIT, AND ALLOWING A TEMPORARY INCOME TAX CREDIT FOR A BUSINESS EQUAL TO 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; INCREASING STATE INCOME TAX REVENUE BY MODIFYING THE COMPUTATION OF THE CORPORATE INCOME TAX RECEIPTS FACTOR TO MAKE IT MORE CONGRUENT WITH COMBINED REPORTING; PREVENTING CORPORATIONS FROM USING TAX SHELTERS IN FOREIGN JURISDICTIONS FOR THE PURPOSE OF TAX AVOIDANCE; CLARIFYING THAT CERTAIN CAPTIVE INSURANCE COMPANIES ARE NOT EXEMPT FROM INCOME TAX; AND MAKING AN APPROPRIATION.**

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

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

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

(b) The purposes of this act are:

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

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

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

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

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

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

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

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

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

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

**39-22-104. Income tax imposed on individuals, estates, and trusts - single rate - report - legislative declaration - definitions - repeal.** (3) There shall be

added to the federal taxable income:

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

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

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

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

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

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

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

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

(B) ~~except that, for income tax years commencing on or after January 1, 2000,~~ Amounts subtracted under ~~subparagraph (f) of this paragraph (f) shall not exceed~~ THIS SUBSECTION (4)(f) ARE CAPPED AT twenty-four thousand dollars per tax year for any individual who is sixty-five years of age or older at the close of the taxable year. FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2022, THE CAP SET FORTH IN THIS SUBSECTION (4)(f)(III)(B) IS CALCULATED BY FIRST CONSIDERING THE TOTAL SOCIAL SECURITY BENEFITS A TAXPAYER RECEIVED THAT WERE INCLUDED IN FEDERAL TAXABLE INCOME AT THE CLOSE OF THE TAXABLE YEAR AND ONLY IF THE TOTAL SOCIAL SECURITY BENEFITS RECEIVED THAT YEAR WERE INCLUDED IN FEDERAL TAXABLE INCOME AT THE CLOSE OF THE TAXABLE YEAR

EXCEED THE CAP SET FORTH IN THIS SUBSECTION (4)(f)(III)(B), THEN THE CAP IS INCREASED TO AN AMOUNT EQUAL TO THE SOCIAL SECURITY BENEFITS RECEIVED BY THE TAXPAYER THAT WERE INCLUDED IN FEDERAL TAXABLE INCOME AT THE CLOSE OF THE TAXABLE YEAR.

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

(D) ~~For the purposes of this paragraph (f)~~ AS USED IN THIS SUBSECTION (4)(f), "pensions and annuities" means retirement benefits that are periodic payments attributable to personal services performed by an individual prior to his or her retirement from employment and that arise from an employer-employee relationship, from service in the uniformed services of the United States, or from contributions to a retirement plan ~~which~~ THAT ARE DEDUCTIBLE FOR FEDERAL INCOME TAX PURPOSES. "Pensions and annuities" includes distributions from individual retirement arrangements and self-employed retirement accounts to the extent that such distributions are not deemed to be premature distributions for federal income tax purposes, amounts received from fully matured privately purchased annuities, social security benefits, and amounts paid from any such sources by reason of permanent disability or death of the person entitled to receive the benefits.

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

(B) EXCEPT AS PROVIDED IN SUBSECTION (4)(i)(II)(C) OF THIS SECTION, FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2022, AN AMOUNT EQUAL TO ALL PAYMENTS OR CONTRIBUTIONS, NOT TO EXCEED TWENTY THOUSAND DOLLARS PER TAXPAYER PER BENEFICIARY FOR A TAXPAYER WHO FILES A SINGLE RETURN, OR THIRTY THOUSAND DOLLARS PER TAXPAYER PER BENEFICIARY FOR TAXPAYERS WHO FILE A JOINT RETURN, MADE DURING THE TAXABLE YEAR UNDER AN ADVANCE PAYMENT CONTRACT, TO A SAVINGS TRUST ACCOUNT, OR OTHERWISE IN CONNECTION WITH A QUALIFIED STATE TUITION PROGRAM ESTABLISHED BY COLLEGEINVEST CREATED IN SECTION 23-3.1-203, OR TO A QUALIFIED STATE TUITION PROGRAM THAT IS AFFILIATED WITH AN EDUCATIONAL INSTITUTION IN THE STATE AND THAT IS ESTABLISHED AND MAINTAINED PURSUANT TO SECTION 529 OF THE INTERNAL REVENUE CODE OR ANY SUCCESSOR SECTION. NOTWITHSTANDING SUBSECTION (4)(i)(III)(D) OF THIS SECTION, COLLEGEINVEST MAY TREAT A CHANGE IN BENEFICIARY AS A NONQUALIFYING DISTRIBUTION IF THE CHANGE WAS MADE FOR THE PURPOSE OF EVADING THE LIMIT IN THIS SUBSECTION (4)(i)(II)(B).

(C) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2023, THE LIMITS SPECIFIED IN SUBSECTION (4)(i)(II)(B) OF THIS SECTION ARE ANNUALLY

ADJUSTED BY THE PERCENTAGE CHANGE IN THE COMBINED AVERAGE ANNUAL COSTS OF TUITION AND ROOM AND BOARD FOR ALL STATE INSTITUTIONS OF HIGHER EDUCATION, AS DEFINED IN SECTION 24-30-1301 (18). THE DEPARTMENT OF HIGHER EDUCATION SHALL ANNUALLY CALCULATE THE PERCENTAGE CHANGE DESCRIBED IN THIS SUBSECTION (4)(i)(II)(C) AND SHALL PROVIDE THE CALCULATION TO THE DEPARTMENT OF REVENUE BY A DEADLINE DETERMINED BY THE DEPARTMENT OF REVENUE. THE DEPARTMENT OF REVENUE MAY ROUND THE ADJUSTED LIMITS TO THE NEAREST HUNDRED DOLLARS.

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

(A) To pay qualified higher education expenses;

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

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

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

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

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

(B) THE NAME AND SOCIAL SECURITY NUMBER, AND THE CONTRIBUTION AMOUNT, OF ANY OTHER COLORADO TAXPAYER MAKING A CONTRIBUTION TO A COLLEGEINVEST ACCOUNT IN THE REPORTING TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2021, WHO INTENDS TO PARTICIPATE IN THE DEDUCTION ALLOWED IN THIS SECTION; AND

(C) THE NAME AND SOCIAL SECURITY NUMBER, AND THE DISTRIBUTION AMOUNT, OF EACH ACCOUNT HOLDER OF A COLLEGEINVEST ACCOUNT WHO IS ALSO A COLORADO TAXPAYER MAKING A DISTRIBUTION IN THE REPORTING TAX YEAR

COMMENCING ON OR AFTER JANUARY 1, 2021, AND THE REASON, IF ANY, FOR THE DISTRIBUTION.

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

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

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

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

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

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

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

(2.7) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2022, BUT BEFORE JANUARY 1, 2023, AND INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2026, A RESIDENT INDIVIDUAL IS ALLOWED AN EARNED INCOME TAX CREDIT AGAINST THE TAXES DUE UNDER THIS ARTICLE 22 THAT IS EQUAL TO TWENTY PERCENT OF THE FEDERAL CREDIT THAT THE RESIDENT INDIVIDUAL WOULD HAVE BEEN ALLOWED UNDER SECTION 32 (n)(1) OF THE INTERNAL REVENUE CODE,

NOTWITHSTANDING THE DATE LIMITATION SET FORTH IN SECTION 32 (n) OF THE INTERNAL REVENUE CODE AS SPECIFIED IN SECTION 9621 (a) OF THE "AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 117-2.

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

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

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

**39-22-129. Child tax credit - legislative declaration - definitions.**

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

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

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

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

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

(C) FIVE PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT THE RESIDENT INDIVIDUAL COULD HAVE CLAIMED ON THEIR FEDERAL TAX RETURN FOR EACH

ELIGIBLE CHILD, IF THE INDIVIDUAL'S FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN FIFTY THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO SEVENTY-FIVE THOUSAND DOLLARS.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

**39-22-303. Dividends in a combined report - foreign source income - affiliated groups - definitions.** (8) (a) EXCEPT AS PROVIDED IN SUBSECTION (8)(b) OF THIS SECTION, neither the taxpayer nor the executive director shall include in a combined report any C corporation ~~which~~ THAT conducts business outside the

United States if eighty percent or more of the C corporation's property and payroll, as determined by factoring pursuant to section 24-60-1301, is assigned to locations outside the United States. For the purpose of this subsection (8), "United States" is restricted to the fifty states and the District of Columbia.

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

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

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

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

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

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

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

(a) "Affiliated group" means:

(I) One or more ~~chains of~~ includable C corporations connected DIRECTLY OR INDIRECTLY through stock ownership with a common parent C corporation ~~which~~

THAT is an includable C corporation if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) For the purposes of this section:

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

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

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

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

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

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

(C) "QUALIFIED REAL PROPERTY" MEANS REAL PROPERTY LOCATED IN COLORADO THAT IS SOLD BY THE TAXPAYER AND GENERATES THE QUALIFYING GAINS RECEIVING CAPITAL TREATMENT AND THAT IS CLASSIFIED BY THE COUNTY PROPERTY TAX ASSESSOR IMMEDIATELY PRECEDING THE SALE AS AGRICULTURAL LAND UNDER

SECTION 39-1-102 (1.6)(a). IF REAL PROPERTY IS SOLD AS A TYPE OF INVESTMENT PACKAGE, THEN, IN ORDER TO BE QUALIFIED REAL PROPERTY, AT LEAST SEVENTY-FIVE PERCENT OF THE REAL PROPERTY SOLD IN THE PACKAGE MUST BE CLASSIFIED BY THE COUNTY PROPERTY TAX ASSESSOR IMMEDIATELY PRECEDING THE SALE AS AGRICULTURAL LAND UNDER SECTION 39-1-102 (1.6)(a).

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

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

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

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

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

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

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

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

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

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

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

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

BUSINESS AND BENEFITS ALL EMPLOYEES ON AN EQUAL BASIS.

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

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

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

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

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

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

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

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

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

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

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

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

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

(II) GUIDELINES REGARDING THE ISSUING OF CREDIT CERTIFICATES;

(III) DETAILED GUIDELINES REGARDING CONVERSION COSTS; AND

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

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

(6) (a) (I) AFTER THE OFFICE PROVIDES THE WRITTEN REPORT REQUIRED IN SUBSECTION (5)(b) OF THIS SECTION, A RESERVATION OF TAX CREDITS IS PERMITTED FOR THE TAX CREDIT ALLOWED IN THIS SECTION. IF THE OFFICE DETERMINES THAT THE APPLICATION FILED UNDER SUBSECTION (4) OF THIS SECTION IS COMPLETE, THE OFFICE SHALL DETERMINE WHETHER THE BUSINESS IS A QUALIFIED BUSINESS, REVIEW THE LIST OF THE EXPECTED CONVERSION COSTS, AND REVIEW THE ESTIMATED CONVERSION COSTS AS CALCULATED BY THE BUSINESS. IF THE OFFICE APPROVES THE BUSINESS AS A QUALIFIED BUSINESS, THE LIST OF EXPECTED CONVERSION COSTS, AND THE ESTIMATED CONVERSION COSTS, THE OFFICE MAY RESERVE FOR THE BENEFIT OF THE QUALIFIED BUSINESS OR THE OWNER AN ALLOCATION OF A TAX CREDIT SUBJECT TO THE LIMITATION SPECIFIED IN SUBSECTION (3)(b) OF THIS SECTION. THE OFFICE SHALL NOTIFY THE QUALIFIED BUSINESS IN WRITING OF THE AMOUNT OF THE RESERVATION. THE RESERVATION OF A TAX CREDIT DOES NOT ENTITLE THE QUALIFIED BUSINESS OR THE OWNER TO AN ISSUANCE OF A TAX CREDIT CERTIFICATE UNTIL THE QUALIFIED BUSINESS COMPLIES WITH ALL OF THE OTHER REQUIREMENTS SPECIFIED IN THIS SECTION FOR THE ISSUANCE OF THE TAX CREDIT CERTIFICATE.

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

(b) (I) THE OFFICE MUST RESERVE TAX CREDITS IN THE ORDER IN WHICH IT RECEIVES COMPLETED APPLICATIONS THAT COMPLY WITH THE REQUIREMENTS OF THIS SECTION AND THE GUIDELINES DEVELOPED BY THE OFFICE. THE OFFICE SHALL



PROVIDE WRITTEN NOTICE OF ANY RESERVATION OF TAX CREDITS AUTHORIZED BY THIS SUBSECTION (6) OR DISAPPROVE THE APPLICATION WITHIN A REASONABLE TIME, NOT TO EXCEED NINETY DAYS AFTER THE FILING OF A COMPLETED APPLICATION.

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

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

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

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

(b) (I) FOLLOWING THE COMPLETION OF THE CONVERSION, THE QUALIFIED BUSINESS SHALL NOTIFY THE OFFICE THAT THE CONVERSION HAS BEEN COMPLETED AND SHALL PROVIDE THE OFFICE WITH A COST CERTIFICATION OF THE ESTIMATED

CONVERSION COSTS. THE COST CERTIFICATION MUST BE AUDITED BY A LICENSED CERTIFIED PUBLIC ACCOUNTANT THAT IS NOT AFFILIATED WITH THE QUALIFIED BUSINESS. THE OFFICE SHALL REVIEW THE COST CERTIFICATION, AND WITHIN NINETY DAYS AFTER RECEIPT OF THE COST CERTIFICATION, THE OFFICE SHALL CERTIFY THE CONVERSION COSTS AND ISSUE A TAX CREDIT CERTIFICATE IN THE AMOUNTS ALLOWED IN SUBSECTION (3) OF THIS SECTION. THE OFFICE SHALL PROMPTLY NOTIFY THE QUALIFIED BUSINESS OF ANY DISALLOWED CONVERSION COSTS.

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

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

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

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

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

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

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

(a) THE TAXPAYER'S NAME; AND

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

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

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

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

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

**39-22-112. Persons and organizations exempt from tax under this article.**

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

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

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

(6.5) "DISQUALIFIED INSURANCE COMPANY" MEANS A COMPANY LICENSED AS A CAPTIVE INSURANCE COMPANY UNDER THE LAWS OF THIS STATE OR THE LAWS OF ANOTHER JURISDICTION WITH GROSS RECEIPTS FOR THE TAXABLE YEAR THAT

CONSIST FIFTY PERCENT OR LESS OF PREMIUMS FROM ARRANGEMENTS THAT CONSTITUTE INSURANCE FOR FEDERAL INCOME TAX PURPOSES.

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

**10-3-209. Tax on premiums collected - exemptions - penalties.** (1) (a) All insurance companies writing business in this state, including, without limitation, those defined in section 10-1-102 (6), EXCEPT A DISQUALIFIED INSURANCE COMPANY, shall pay to the division of insurance a tax on the gross amount of all premiums collected or contracted for on policies or contracts of insurance covering property or risks in this state during the previous calendar year, after deducting from such gross amount the amount received as reinsurance premiums on business in this state, and the amount refunded under credit life and credit accident and health insurance policies on account of termination of insurance prior to the maturity date of the indebtedness, and, in the case of companies other than life, the amounts paid to policyholders as return premiums, which shall include dividends or unabsorbed premiums or premium deposits returned or credited to policyholders.

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

**10-6-128. Tax on premiums collected - exemptions - penalties.** (1) All captive insurance companies doing business in this state, EXCEPT A DISQUALIFIED INSURANCE COMPANY, shall pay to the division of insurance an annual tax on the gross amount of all premiums collected, less premiums or premium credits returned to policyholders, on policies or contracts of insurance covering property or risks in this state and on risks and property situated in any other state in which the insurer has not paid premium tax.

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

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

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

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

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

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

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

Approved: June 23, 2021