INTRODUCED

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

A BILL FOR AN ACT

CONCERNING INCOME TAX, AND, IN CONNECTION THEREWITH, MAKING 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 AND MODIFYING THE COMPUTATION OF THE RECEIPTS FACTOR TO MAKE IT MORE CONGRUENT WITH THE UNITARY BUSINESS PRINCIPLE; 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, AND DISALLOWING AN ENHANCED FEDERAL DEDUCTION FOR FOOD

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment. Capital letters or bold & italic numbers indicate new material to be added to existing statute. Dashes through the words indicate deletions from existing statute.
AND BEVERAGE EXPENSES AT RESTAURANTS, AND REPEALING
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 PREVENTING CORPORATIONS FROM
USING TAX SHELTERS IN FOREIGN JURISDICTIONS FOR THE
PURPOSE OF TAX AVOIDANCE; AND CLARIFYING THAT CERTAIN
CAPTIVE INSURANCE COMPANIES ARE NOT EXEMPT FROM
INCOME TAX.

Bill Summary
(Note: This summary applies to this bill as introduced and does
not reflect any amendments that may be subsequently adopted. If this bill
passes third reading in the house of introduction, a bill summary that
applies to the reengrossed version of this bill will be available at
http://leg.colorado.gov.)

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

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

**Section 3** increases the earned income tax credit to 20% for income tax years commencing on or after January 1, 2022, and applies the lowered minimum age for individuals without a qualifying child in the federal "American Rescue Plan Act of 2021" to the state credit for income tax years commencing on or after January 1, 2022.

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

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

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

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

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

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

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

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*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:

(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, 39-22-104, 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 a schedule F, profit or loss from farming, or successor form, as
an attachment to a federal income tax return.

(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, Amounts subtracted under this paragraph (f) shall not exceed SUBSECTION (4)(f) ARE CAPPED AT twenty thousand dollars per tax year; except that for income tax years commencing on or after January 1, 2000, amounts subtracted under subparagraph (I) of this paragraph (f) shall not exceed SUBSECTION (4)(f)(I) OF THIS SECTION 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 caps set forth in this subsection (4)(f)(III)(A) are 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 caps set forth in this subsection (4)(f)(III)(A), then the caps are 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.

(B) For the purpose of determining the exclusion 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.

(C) 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 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) For income tax years commencing on or after January
1, 2022, an amount equal to all payments or contributions, not
to exceed ten thousand dollars per taxpayer per beneficiary for
a taxpayer who files a single return, or fifteen 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).

(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 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, 2023, 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, 2022;

(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, 2022, WHO INTENDS TO PARTICIPATE IN THE DEDUCTION ALLOWED IN THIS SECTION; AND

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

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

39-22-123.5. Earned income tax credit - not a refund of excess state revenues - trigger - legislative declaration. (2) (b) For an income tax year commencing on or after January 1, 2022, 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 percent of the federal credit that the resident individual claimed on his or her federal tax return for the same tax year.

(2.5) (b) For income tax years commencing on or after January 1, 2022, 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.

(2.7) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
JANUARY 1, 2022, 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

SECTION 4. 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

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

39-22-301. Corporate tax imposed. (1) (d) (I) A tax is imposed
upon each domestic C corporation and foreign C corporation, DOMESTIC C CORPORATION, FOREIGN C CORPORATION, AND COMBINED GROUP, AS THAT TERM IS DEFINED IN SECTION 39-22-303 (12)(b), doing business in Colorado annually in an amount of the net income of such C corporation or combined group during the year derived from sources within Colorado as set forth in the following schedule of rates:

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

(9) (a) For income tax years commencing prior to January 1, 2022, dividends which that a C corporation includable in a combined report receives from another C corporation also includable in the combined report shall be excluded from taxable income.

(b) For income tax years beginning on or after January 1, 2022, dividends paid by one member of the combined group to another member of the combined group are excluded from that member's income to the extent those dividends are paid out of the earnings and profits of the unitary business included in the combined report in the current or an earlier year.

(11) (a) This subsection (11) applies to income tax years commencing prior to January 1, 2022.

(a)(b) In the case of an affiliated group of C corporations, the executive director may require, or the taxpayer may file, a combined report, but such report shall only include those members of an affiliated
group of C corporations as to which any three of the following facts have been in existence in the tax year and the two preceding tax years:

(I) Sales or leases by one affiliated C corporation to another affiliated C corporation constitute fifty percent or more of the gross operating receipts of the C corporation making the sales or leases; or, purchases or leases from one affiliated C corporation by another affiliated C corporation constitute fifty percent or more of the cost of goods sold or leased by the C corporation making the purchases or leases. This subparagraph (I) shall not apply to the following transactions between affiliated C corporations: The issuance of commercial paper or other debt obligations and the use of the proceeds therefrom to make loans or to purchase receivables between affiliated C corporations.

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

(III) Twenty percent or more of the long-term debt of one affiliated C corporation is owed to or guaranteed by another affiliated C corporation. For the purposes of this subparagraph (III) as used in this
SUBSECTION (11)(b)(III), "long-term debt" means debt which becomes due more than one year after incurred.

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

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

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

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

(d) 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:

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

(II) 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.

(e) The executive director shall not require returns to be made
on a consolidated basis, but an affiliated group of C corporations may
elect to file a consolidated return as otherwise provided in this article
ARTICLE 22.

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

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

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

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

(a) EXCEPT AS PROVIDED IN SUBSECTION (8) OF THIS SECTION, ALL
OF THE MEMBERS OF AN AFFILIATED GROUP OF C CORPORATIONS,
WHEREVER INCORPORATED OR DOMICILED, THAT ARE MEMBERS OF A
UNITARY BUSINESS SHALL FILE A COMBINED REPORT AS A COMBINED
GROUP.

(b) The net income of each member of the combined group,
as determined under section 39-22-304, is combined, eliminating
items of income, expense, gain, and loss from transactions
between members of the combined group, applying the
consolidated filing rules under the internal revenue code, and
the regulations thereunder, as if the combined group was a
consolidated filing group. Dividends are eliminated to the
extent permitted under subsection (9)(b) of this section.

(c) (I) Except as provided in this section, section
39-22-303.6, as modified, if applicable, by section 39-22-303.7,
determines how income or loss, or items making up income or
loss, are allocated and apportioned to this state.

(II) 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 for the combined
group's unitary business, 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 unitary business wherever located.

(III) Intercompany transactions among members of the
combined group are excluded from the numerator and
denominator of the apportionment calculation set forth in
section 39-22-303.6, as modified, if applicable, by section
(IV) If a member of the combined group holds a partnership interest from which it derives apportionable income, as that term is defined in section 39-22-303.6 (1)(a), the share of the partnership's apportionment factor to be included in the apportionment factor of the combined group is determined by multiplying the partnership's factor by a ratio, the numerator of which is the amount of the partnership's apportionable income properly included in the member's income, whether received directly or indirectly, and including any guaranteed payments, and the denominator of which is the amount of the partnership's total apportionable income. If a member of the combined group directly or indirectly receives an allocation of a partnership tax item, such as an item of loss or expense, so that it is not possible to determine the member's share of apportionable income, the executive director may adopt rules for inclusion of particular partnership factors, or portions of factors, in the combined group's factors.

(d) The combined report must be filed under the name and federal employer identification number of the parent corporation if the parent is a member of the combined group. If there is no parent corporation, or if the parent is not a group member, the members of the combined group shall choose a member to file the return. The filing member must remain the same in subsequent years unless the filing member is no longer the parent corporation or is no longer a member of the combined group. The return must be signed by a responsible officer of the
FILING MEMBER ON BEHALF OF THE COMBINED GROUP MEMBERS AS
REQUIRED BY SECTION 39-22-601 (2).

(e) Members of the combined group are jointly and
severally liable for the tax liability of the combined group
included in the combined return.

(f) The executive director shall not require returns to be
made on a consolidated basis, but an affiliated group of C
corporations may elect to file a consolidated return as
otherwise provided in this article 22.

(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 is an includable C corporation if:

(1) (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

(1) (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.

(b) (II) As used in this subsection (12)(a), the
term "stock" does not include nonvoting stock which
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) "COMBINED GROUP" MEANS THE AFFILIATED GROUP OF C
CORPORATIONS THAT MUST FILE A COMBINED REPORT AS REQUIRED BY
SUBSECTION (11.5) OF THIS SECTION.

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

(d) "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,
LIECHTENSTEIN, 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.

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

(f) "UNITARY BUSINESS" MEANS A SINGLE ECONOMIC ENTERPRISE
MADE UP EITHER OF SEPARATE PARTS OF A SINGLE C CORPORATION OR OF
AN AFFILIATED GROUP OF C CORPORATIONS THAT ARE SUFFICIENTLY
INTERDEPENDENT, INTEGRATED, AND INTERRELATED THROUGH THEIR
ACTIVITIES SO AS TO PROVIDE A SYNERGY AND MUTUAL BENEFIT THAT
PRODUCES A SHARING OR EXCHANGE OF VALUE AMONG THEM AND A
SIGNIFICANT FLOW OF VALUE TO THE SEPARATE PARTS. A "UNITARY
BUSINESS" INCLUDES THAT PART OF THE BUSINESS THAT IS CONDUCTED BY
A TAXPAYER THROUGH THE TAXPAYER'S INTEREST IN A PARTNERSHIP,
WHETHER THE INTEREST IN THAT PARTNERSHIP IS HELD DIRECTLY OR
INDIRECTLY THROUGH A SERIES OF PARTNERSHIPS OR OTHER
PASS-THROUGH ENTITIES.

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

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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 THE
UNITARY BUSINESS, 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);

(p) (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 (1); and add (9) as follows:


(1) For income tax years commencing on or after July 1, 1995, but
BEFORE JANUARY 1, 2022, a modification, in the form of a reduction of income taxable by the state of Colorado, shall be allowed to any qualified taxpayer for the amount of income attributable to qualifying gains receiving capital treatment earned by the qualified taxpayer during the taxable year and included in federal taxable income.

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

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
ASCIERTAINABLE 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.

(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) "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 APPROVED BY THE
OFFICE FOR THE TAX INCENTIVES IN THIS SECTION.

(g) "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 TO A QUALIFIED BUSINESS FOR:

(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) THE MAXIMUM AMOUNT OF ALL TAX CREDIT CERTIFICATES
THAT THE OFFICE MAY ISSUE 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) The office shall develop guidelines for the administration of this section, including, but not limited to:

(a) Application requirements, including a list of the data the office needs to meet the requirements in subsection (11) of this section;

(b) Guidelines regarding the issuing of credit certificates;

(c) Detailed guidelines regarding conversion costs; and

(d) Guidelines and standards for certifying a business as a qualified business.

(6) (a) 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 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 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.
(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 issue any such 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 RECEIVING 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 issuance of the
written notice from the office to the qualified business granting
the reservation of tax credits. Any qualified business receiving
a reservation of tax credits 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 issuance it previously gave the business 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 whose reservation of tax credits has been
rescinded and, upon receipt of the notice, the qualified business
may submit a new application and applicable plan.

(b) FOLLOWING THE COMPLETION OF THE CONVERSION, THE

(c) NOTWITHSTANDING SUBSECTION (7)(b) OF THIS SECTION, THE TOTAL AMOUNT OF THE TAX CREDIT CERTIFICATE ISSUED TO A QUALIFIED BUSINESS SHALL NOT EXCEED THE AMOUNT OF THE TAX CREDIT RESERVATION ISSUED 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 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. 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 income, the amount of the credit not used to offset income taxes must be refunded to the qualified business.

(9) Any tax credits issued under this section to a partnership, a limited liability company taxed as a partnership, or multiple owners of a property 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 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 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 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 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. DISQUALIFIED INSURANCE COMPANIES, as defined in section 10-1-102 (6.5), shall not be exempt from the tax imposed by this article. 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. 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.