

CHAPTER 299

TAXATION

HOUSE BILL 21-1312

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

AN ACT

CONCERNING TAXATION, AND, IN CONNECTION THEREWITH, NARROWING THE SCOPE OF THE HOME OFFICE INSURANCE PREMIUM TAX RATE REDUCTION AND THE ANNUITIES CONSIDERATION EXEMPTION FOR THE INSURANCE PREMIUM TAX; FOR PURPOSES OF THE PROPERTY TAX, REQUIRING THE ACTUAL VALUE OF REAL PROPERTY TO REFLECT THE VALUE OF THE FEE SIMPLE ESTATE AND REQUIRING PERSONAL PROPERTY TO BE BASED ON THE PROPERTY'S VALUE IN USE; INCREASING THE PER-SCHEDULE EXEMPTION FOR BUSINESS PERSONAL PROPERTY TAX AND REIMBURSING LOCAL GOVERNMENTS FOR THE LOST TAX REVENUE; FOR PURPOSES OF THE SALES AND USE TAX, CODIFYING THAT THE DEFINITION OF TANGIBLE PERSONAL PROPERTY INCLUDES DIGITAL GOODS AND SPECIFYING THAT THE TAX ON SALES AND PURCHASES OF TANGIBLE PERSONAL PROPERTY INCLUDES AMOUNTS CHARGED FOR MAINFRAME COMPUTER ACCESS, PHOTOCOPYING, AND PACKING AND CRATING; DISALLOWING THE SALES TAX VENDOR FEE FOR RETAILERS WITH A SUBSTANTIAL AMOUNT OF TAXABLE SALES DURING THE FILING PERIOD; FOR THE SEVERANCE TAX ON OIL AND GAS, REQUIRING THE NET-BACK DEDUCTIONS USED TO DETERMINE GROSS INCOME BE DIRECT COSTS ACTUALLY PAID BY THE TAXPAYER; PHASING-OUT TAX CREDITS AND EXEMPTIONS FOR THE SEVERANCE TAX ON COAL; AND MAKING AN APPROPRIATION.

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

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

(a) (I) The insurance premium tax rate for a home office or regional home office was designed to create an incentive for insurance companies to maintain a substantial workforce presence in the state, but it has become clear that this incentive has failed to achieve the intended result;

(II) The annuities considerations exemption to the insurance premium tax was created to promote retirement annuities as a form of retirement income security for

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.

workers, but over the years it has been expanded due to the use of annuities as tax shelters;

(III) The home office or regional home office tax rate and the annuities considerations exemption are being modified to achieve the original purpose of those measures;

(IV) Any revenue increase from these changes is incidental to this purpose and is de minimis;

(b) The changes to the property tax will codify the current valuation methods for real and personal property in the state;

(c) With respect to certain changes to the sales and use tax in this act:

(I) The changes are intended to reflect the general assembly's intent of how the existing statute should be interpreted;

(II) The definition of "digital goods" codifies the department of revenue's long-standing treatment of digital goods, as reflected in its rule, and neither expands nor contracts the definition of "tangible personal property";

(III) It is the general assembly's intent to tax sales of tangible personal property no matter the delivery method;

(IV) The delivery methods specified in this act are not meant to be exhaustive and sales of digital goods that are delivered via new technologies should also be taxed; and

(V) It is the general assembly's intent to clarify that amounts charged for mainframe computer access, photocopying, and packing and crating are sales and purchases of tangible personal property subject to the state sales tax;

(d)(I) In *BP Am. Prod. Co. v. Colo. Dep't of Revenue*, 2016 CO 23, the Colorado supreme court held that the "cost of capital" associated with natural gas transportation and processing facilities was a deductible cost under section 39-29-102 (3)(a), Colorado Revised Statutes, which expanded the deduction well beyond the general assembly's original intent; and

(II) By limiting the allowable deduction to only those costs that are direct and actually paid by the taxpayer, the general assembly is restoring the deduction to its original scope and intent, while also simplifying and streamlining the collection and administration of the severance tax.

SECTION 2. In Colorado Revised Statutes, 10-3-209, **amend** (1)(b)(II) introductory portion, (1)(d)(IV), and (5); and **add** (1)(b)(II.5) and (1)(b)(II.7) as follows:

10-3-209. Tax on premiums collected - exemptions - penalties. (1) (b) (II) For purposes of this paragraph (b) SUBSECTION (1)(b), EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1)(b)(II.5), any company is deemed to maintain a home office or

regional home office in this state if such company either:

(II.5) TO BE DEEMED TO MAINTAIN A HOME OFFICE OR REGIONAL HOME OFFICE IN THIS STATE, A COMPANY MUST MEET ONE OF THE CRITERIA SET FORTH IN SUBSECTION (1)(b)(II) OF THIS SECTION AND ALSO HAVE A WORKFORCE IN THE STATE THAT IS GREATER THAN OR EQUAL TO:

(A) TWO PERCENT OF THE COMPANY'S TOTAL DOMESTIC WORKFORCE, FOR TAXES THAT ARE DUE AND PAYABLE FOR CALENDAR YEAR 2022;

(B) TWO AND ONE-QUARTER PERCENT OF THE COMPANY'S TOTAL DOMESTIC WORKFORCE, FOR TAXES THAT ARE DUE AND PAYABLE FOR CALENDAR YEAR 2023; AND

(C) TWO AND ONE-HALF PERCENT OF THE COMPANY'S TOTAL DOMESTIC WORKFORCE, FOR TAXES THAT ARE DUE AND PAYABLE FOR CALENDAR YEAR 2024 AND EACH CALENDAR YEAR THEREAFTER.

(II.7) FOR PURPOSES OF THE CALCULATION REQUIRED IN SUBSECTION (1)(b)(II.5) OF THIS SECTION, A WORKFORCE INCLUDES ALL EMPLOYEES OF THE COMPANY; THE COMPANY'S ULTIMATE PARENT ENTITY; SUBSIDIARIES; AND AFFILIATES, AS DEFINED IN SECTION 10-3-801 (1), BUT EXCLUDES AGENTS, BROKERS, AND THEIR STAFF.

(d) (IV) Except to the extent provided in subsection (2) of this section, the tax imposed by this section shall not apply to premiums collected or contracted for after December 31, 1968, on policies or contracts issued in connection with a pension, profit sharing, or annuity plan established by an employer for employees if contributions by such employer thereunder are deductible by such employer in determining such employer's net income as defined in section 39-22-304, ~~C.R.S.~~, and shall not apply to premiums collected or contracted for after December 31, 1968, on policies or contracts purchased for an employee by an employer if such employer is exempt under section 39-22-112 ~~C.R.S.~~, from the tax imposed by article 22 of title 39, ~~C.R.S.~~; or is a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state. ~~Except to the extent provided in subsection (2) of this section,~~ The tax imposed by this section shall not apply to annuity considerations collected or contracted for after December 31, 1976, EXCEPT TO THE EXTENT PROVIDED IN SUBSECTION (2) OF THIS SECTION AND EXCEPT FOR, TAXES THAT ARE DUE AND PAYABLE FOR THE CALENDAR YEAR 2021 AND EACH CALENDAR YEAR THEREAFTER, THIS EXEMPTION ONLY APPLIES TO ANNUITY CONSIDERATIONS THAT ARE USED AS QUALIFIED FUNDING ASSETS UNDER SECTION 130 OF THE INTERNAL REVENUE CODE OR ANNUITY CONSIDERATIONS THAT ARE PURCHASED IN CONNECTION WITH:

(A) A PLAN UNDER SECTION 401(a) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED;

(B) A ROTH 401(k) UNDER SECTION 402A OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED;

(C) A TAX-SHELTERED ANNUITY PLAN UNDER SECTION 403(b) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED;

(D) AN INDIVIDUAL RETIREMENT ACCOUNT UNDER SECTION 408(a) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED;

(E) AN INDIVIDUAL RETIREMENT ANNUITY UNDER SECTION 408(b) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED;

(F) A SIMPLIFIED EMPLOYEE PENSION UNDER SECTION 408(k) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED;

(G) A SIMPLE RETIREMENT ACCOUNT UNDER SECTION 408(p) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED;

(H) A DEFERRED COMPENSATION PLAN UNDER SECTION 457 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED;

(I) A ROTH 457 UNDER SECTION 457 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED; AND

(J) A QUALIFIED RETIREMENT PLAN NOT SPECIFIED IN THIS SUBSECTION (1)(d)(IV) OR A ROTH VERSION OF ANY QUALIFIED RETIREMENT PLAN.

(5) For the purpose of auditing a company's tax statement, the commissioner or the commissioner's designee, WHICH MAY INCLUDE AN INDEPENDENT EXAMINER UNDER SECTION 10-1-204(6), has the power to examine any books, papers, records, agreements, or memoranda bearing upon the matters required to be included in the tax statement. Such books, papers, records, agreements, or memoranda shall be made available upon request to the commissioner's office OR THE COMMISSIONER'S DESIGNEE.

SECTION 3. In Colorado Revised Statutes, 39-1-102, **add** (3.7) as follows:

39-1-102. Definitions. As used in articles 1 to 13 of this title 39, unless the context otherwise requires:

(3.7) "FEE SIMPLE ESTATE" MEANS THE LARGEST POSSIBLE ESTATE ALLOWED BY LAW, AN ESTATE THAT HAS POTENTIALLY INFINITE DURATION.

SECTION 4. In Colorado Revised Statutes, 39-1-103, **amend** (5)(a) as follows:

39-1-103. Actual value determined - when. (5) (a) All real and personal property shall be appraised and the actual value thereof for property tax purposes determined by the assessor of the county wherein such property is located. The actual value of such property, other than agricultural lands exclusive of building improvements thereon and other than residential real property and other than producing mines and lands or leaseholds producing oil or gas, shall be that value determined by appropriate consideration of the cost approach, the market approach, and the income approach to appraisal. The assessor shall consider and document all elements of such approaches that are applicable prior to a determination of actual value. THE ACTUAL VALUE REFLECTS THE VALUE OF THE FEE SIMPLE ESTATE. Despite any orders of the state board of equalization, no assessor shall arbitrarily increase the valuations for assessment of all parcels represented within the abstract of a

county or within a class or subclass of parcels on that abstract by a common multiple in response to the order of said board. If an assessor is required, pursuant to the order of said board, to increase or decrease valuations for assessment, such changes shall be made only upon individual valuations for assessment of each and every parcel, using each of the approaches to appraisal specified in this paragraph (a) SUBSECTION (5)(a), if applicable. The actual value of agricultural lands, exclusive of building improvements thereon, shall be determined by consideration of the earning or productive capacity of such lands during a reasonable period of time, capitalized at a rate of thirteen percent. Land that is valued as agricultural and that becomes subject to a perpetual conservation easement shall continue to be valued as agricultural notwithstanding its dedication for conservation purposes; except that, if any portion of such land is actually used for nonagricultural commercial or nonagricultural residential purposes, that portion shall be valued according to such use. Nothing in this subsection (5) shall be construed to require or permit the reclassification of agricultural land or improvements, including residential property, due solely to subjecting the land to a perpetual conservation easement. The actual value of residential real- property shall be determined solely by consideration of the market approach to appraisal. A gross rent multiplier may be considered as a unit of comparison within the market approach to appraisal. The valuation for assessment of producing mines and of lands or leaseholds producing oil or gas shall be determined pursuant to articles 6 and 7 of this title TITLE 39.

SECTION 5. In Colorado Revised Statutes, 39-1-104, **amend** (12.3)(a)(I) as follows:

39-1-104. Valuation for assessment - definitions. (12.3) (a) (I) The actual value of personal property shall be is determined by appropriate consideration of such of the three approaches specified in section 39-1-103 (5)(a) as are applicable to the appraisal of such property AND IS BASED ON THE PROPERTY'S VALUE IN USE. Subject to review and approval pursuant to section 39-2-109 (1)(e), the administrator shall prepare and publish appraisal procedures and instructions for the annual appraisal of such property that will include A DEFINITION OF "VALUE IN USE" AND a factor or factors to adjust the actual value for the current year of assessment to the level of value applicable to real property.

SECTION 6. In Colorado Revised Statutes, 39-3-119.5, **amend** (2)(a)(III) and (2)(b)(I); and **add** (2)(a)(V), (2)(a)(VI), (2)(a)(VII), (2)(a)(VIII), and (3) as follows:

39-3-119.5. Personal property - exemption - reimbursement to local governments - legislative declaration - definitions. (2) (a) The exemption created in subsection (1) of this section shall be up to and including the following amounts:

(III) Five thousand five hundred dollars for property tax years commencing on January 1, 2011, and January 1, 2012; ~~and~~

(V) SEVEN THOUSAND THREE HUNDRED DOLLARS FOR PROPERTY TAX YEARS COMMENCING ON JANUARY 1, 2015, AND JANUARY 1, 2016;

(VI) SEVEN THOUSAND FOUR HUNDRED DOLLARS FOR PROPERTY TAX YEARS COMMENCING ON JANUARY 1, 2017, AND JANUARY 1, 2018;

(VII) SEVEN THOUSAND SEVEN HUNDRED DOLLARS FOR PROPERTY TAX YEARS COMMENCING ON JANUARY 1, 2019, AND JANUARY 1, 2020; AND

(VIII) FIFTY THOUSAND DOLLARS FOR PROPERTY TAX YEARS COMMENCING ON JANUARY 1, 2021, AND JANUARY 1, 2022.

(b) (I) (A) Beginning with the property tax year commencing on ~~January 1, 2015~~ JANUARY 1, 2023, the amount of the exemption created in subsection (1) of this section shall be adjusted biennially to account for inflation since the amount of the exemption last changed pursuant to this subsection (2). On or before ~~November 1, 2014~~ NOVEMBER 1, 2022, and each even-numbered year thereafter, the administrator shall calculate the amount of the exemption for the next two-year cycle using inflation for the prior two calendar years as of the date of the calculation. The adjusted exemption shall be rounded upward to the nearest one hundred dollar increment. The administrator shall certify the amount of the exemption for the next two-year cycle and publish the amount on the website maintained by the division of property taxation in the department of local affairs.

(B) WHEN CALCULATING THE EXEMPTION AMOUNT UNDER SUBSECTION (2)(b)(I)(A) OF THIS SECTION, THE ADMINISTRATOR SHALL DO ANOTHER CALCULATION IN THE SAME MANNER BUT STARTING FROM SEVEN THOUSAND NINE HUNDRED DOLLARS INSTEAD OF FIFTY THOUSAND DOLLARS. THIS AMOUNT IS THE ALTERNATIVE EXEMPTION AMOUNT.

(C) IF, UNDER SUBSECTION (3)(f) OF THIS SECTION, THE STATE TREASURER NOTIFIES THE ADMINISTRATOR THAT NOT ALL COUNTIES HAVE RECEIVED REIMBURSEMENT WARRANTS FOR LOST PROPERTY TAX REVENUE FOR THE AMOUNTS SPECIFIED IN SUBSECTION (3)(d) OF THIS SECTION, THEN BEGINNING WITH THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1 THAT FOLLOWS THE NOTIFICATION, AND FOR ALL PROPERTY TAX YEARS THEREAFTER, THE AMOUNT OF THE EXEMPTION IN SUBSECTION (1) OF THIS SECTION IS THE ALTERNATIVE EXEMPTION AMOUNT. THEREAFTER, THE ALTERNATIVE EXEMPTION IS ADJUSTED BIENNIALY TO ACCOUNT FOR INFLATION IN THE SAME MANNER AS SET FORTH IN SUBSECTION (2)(b)(I)(A) OF THIS SECTION, AND THE ADMINISTRATOR SHALL CERTIFY THE AMOUNT OF THE EXEMPTION FOR THE NEXT TWO-YEAR CYCLE AND PUBLISH THE AMOUNT ON THE WEBSITE MAINTAINED BY THE DIVISION OF PROPERTY TAXATION IN THE DEPARTMENT OF LOCAL AFFAIRS.

(3) (a) (I) FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2021, EACH ASSESSOR SHALL CALCULATE THE AGGREGATE VALUE OF EXEMPT BUSINESS PERSONAL PROPERTY WITHIN THE COUNTY BASED ON THE PROPERTY THAT IS LISTED ON SCHEDULES FOR THE PROPERTY TAX YEAR WITH A TOTAL VALUE THAT IS MORE THAN SEVEN THOUSAND NINE HUNDRED DOLLARS AND LESS THAN OR EQUAL TO FIFTY THOUSAND DOLLARS.

(II) FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2021, EACH TREASURER SHALL CALCULATE THE TOTAL PROPERTY TAX REVENUES LOST BY ALL LOCAL GOVERNMENTAL ENTITIES WITHIN THE TREASURER'S COUNTY BASED ON THE EXEMPT BUSINESS PERSONAL PROPERTY AMOUNT CALCULATED IN ACCORDANCE WITH SUBSECTION (3)(a)(I) OF THIS SECTION.

(b) NO LATER THAN FEBRUARY 1, 2022, AND EACH FEBRUARY 1 THEREAFTER, THE ADMINISTRATOR SHALL CALCULATE THE PERCENTAGE INCREASE OR DECREASE IN TOTAL VALUATION OF BUSINESS PERSONAL PROPERTY IN THE STATE OVER THE PRIOR TWO PROPERTY TAX YEARS. THE ADMINISTRATOR SHALL PUBLISH THE PERCENTAGE INCREASE OR DECREASE ON THE WEBSITE MAINTAINED BY THE DIVISION OF PROPERTY TAXATION IN THE DEPARTMENT OF LOCAL AFFAIRS.

(c) (I) FOR THE PROPERTY TAX YEARS COMMENCING ON JANUARY 1, 2022, AND EACH YEAR THEREAFTER, EACH ASSESSOR SHALL CALCULATE AN ESTIMATE OF THE AGGREGATE VALUE OF EXEMPT BUSINESS PERSONAL PROPERTY FOR THE COUNTY AND EACH LOCAL GOVERNMENTAL ENTITY LOCATED WITHIN THE COUNTY THAT IS EQUAL TO THE APPLICABLE BASELINE EXEMPTION TOTAL ADJUSTED BY THE GROWTH FACTOR FOR EACH PROPERTY TAX YEAR COMMENCING ON AND AFTER JANUARY 1, 2022.

(II) FOR THE PROPERTY TAX YEARS COMMENCING ON JANUARY 1, 2022, AND EACH YEAR THEREAFTER, EACH TREASURER SHALL CALCULATE THE TOTAL PROPERTY TAX REVENUES LOST BY ALL LOCAL GOVERNMENTAL ENTITIES WITHIN THE TREASURER'S COUNTY BASED ON THE ESTIMATE OF EXEMPT BUSINESS PERSONAL PROPERTY AMOUNT CALCULATED IN ACCORDANCE WITH SUBSECTION (3)(c)(I) OF THIS SECTION.

(III) AS USED IN THIS SUBSECTION (3)(c), UNLESS THE CONTEXT OTHERWISE REQUIRES:

(A) "BASELINE EXEMPTION TOTAL" MEANS THE AGGREGATE VALUE OF THE EXEMPT BUSINESS PERSONAL PROPERTY CALCULATED IN ACCORDANCE WITH SUBSECTION (3)(a)(I) OF THIS SECTION FOR A COUNTY OR A LOCAL GOVERNMENTAL ENTITY LOCATED WITHIN THE COUNTY AS OF JANUARY 1, 2021.

(B) "GROWTH FACTOR" MEANS THE PERCENTAGE INCREASE OR DECREASE THAT THE ADMINISTRATOR PUBLISHES FOR A PROPERTY TAX YEAR IN ACCORDANCE WITH SUBSECTION (3)(b) OF THIS SECTION.

(d) NO LATER THAN MARCH 1, 2022, AND EACH MARCH 1 THEREAFTER, EACH TREASURER SHALL REPORT THE AMOUNT SPECIFIED IN SUBSECTION (3)(a)(II) OR (3)(c)(II) OF THIS SECTION, AS APPLICABLE, AND THE BASIS FOR THE AMOUNT TO THE ADMINISTRATOR, AND THE ADMINISTRATOR MAY REQUIRE A TREASURER TO PROVIDE ADDITIONAL INFORMATION AS NECESSARY TO EVALUATE THE AMOUNT REPORTED. THE ADMINISTRATOR SHALL CONFIRM THAT THE REPORTED AMOUNT IS CORRECT OR RECTIFY THE AMOUNT, IF NECESSARY. THE ADMINISTRATOR SHALL THEN FORWARD THE CORRECT AMOUNT FOR EACH COUNTY TO THE STATE TREASURER TO ENABLE THE STATE TREASURER TO ISSUE A REIMBURSEMENT WARRANT TO EACH TREASURER IN ACCORDANCE WITH SUBSECTION (3)(e) OF THIS SECTION.

(e) NO LATER THAN APRIL 15, 2022, AND APRIL 15 OF EACH YEAR THEREAFTER, THE STATE TREASURER SHALL ISSUE A WARRANT TO BE PAID UPON DEMAND FROM THE GENERAL FUND TO EACH TREASURER THAT IS EQUAL TO THE AMOUNT SPECIFIED BY THE ADMINISTRATOR FOR THE COUNTY UNDER SUBSECTION (3)(d) OF THIS SECTION. EACH TREASURER SHALL DISTRIBUTE THE TOTAL AMOUNT RECEIVED FROM THE STATE TREASURER TO THE LOCAL GOVERNMENTAL ENTITIES WITHIN THE

TREASURER'S COUNTY AS IF THE REVENUES HAD BEEN REGULARLY PAID AS PROPERTY TAX. WHEN DISTRIBUTING THE MONEY, THE TREASURER SHALL PROVIDE EACH LOCAL GOVERNMENTAL ENTITY WITH A STATEMENT OF THE AMOUNT DISTRIBUTED TO THE LOCAL GOVERNMENTAL ENTITY THAT REPRESENTS THE REIMBURSEMENT RECEIVED UNDER THIS SUBSECTION (3)(e).

(f) NO LATER THAN MAY 1, 2022, AND MAY 1 OF EACH YEAR THEREAFTER, THE STATE TREASURER SHALL NOTIFY THE ADMINISTRATOR WHETHER ALL COUNTIES HAVE RECEIVED A REIMBURSEMENT WARRANT FOR LOST PROPERTY TAX REVENUE FOR THE AMOUNTS SPECIFIED IN SUBSECTION (3)(d) OF THIS SECTION.

(g) THIS SUBSECTION (3) DOES NOT APPLY IF THE AMOUNT OF THE EXEMPTION CREATED IN SUBSECTION (1) OF THIS SECTION IS THE ALTERNATIVE EXEMPTION AMOUNT AS REQUIRED BY SUBSECTION (2)(b)(I)(C) OF THIS SECTION.

SECTION 7. In Colorado Revised Statutes, 39-5-128, **add** (1.5) as follows:

39-5-128. Certification of valuation for assessment. (1.5) ALONG WITH THE CERTIFICATION REQUIRED BY SUBSECTION (1) OF THIS SECTION, THE ASSESSOR SHALL ALSO PROVIDE:

(a) THE AGGREGATE VALUE OF EXEMPT BUSINESS PERSONAL PROPERTY SPECIFIED IN SECTION 39-3-119.5 (3)(a)(I) FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2021, WITHIN THE TERRITORIAL LIMITS OF EACH TOWN, CITY, SCHOOL DISTRICT, OR SPECIAL DISTRICT; AND

(b) THE AMOUNT CALCULATED UNDER SECTION 39-3-119.5 (3)(c)(I) FOR THE ESTIMATE OF THE AGGREGATE VALUE OF EXEMPT BUSINESS PERSONAL PROPERTY FOR EACH PROPERTY TAX YEAR BEGINNING WITH THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2022, WITHIN THE TERRITORIAL LIMITS OF EACH TOWN, CITY, SCHOOL DISTRICT, OR SPECIAL DISTRICT.

SECTION 8. In Colorado Revised Statutes, 39-26-102, **amend** (5.7), (6.5), and (15)(a)(I); and **add** (6.4), (6.6), and (15)(b.5) as follows:

39-26-102. Definitions. As used in this article 26, unless the context otherwise requires:

(5.7) ~~Repealed.~~ "MAINFRAME COMPUTER ACCESS" MEANS THE PROVISION OF ACCESS TO COMPUTER EQUIPMENT FOR THE PURPOSE OF STORING OR PROCESSING DATA. "MAINFRAME COMPUTER ACCESS" DOES NOT INCLUDE THE PROVISION OF ACCESS TO COMPUTER EQUIPMENT FOR THE PURPOSE OF EXAMINING OR ACQUIRING DATA MAINTAINED BY THE VENDOR. "MAINFRAME COMPUTER ACCESS" DOES NOT INCLUDE THE PROVISION OF ACCESS TO COMPUTER EQUIPMENT INCIDENT TO ELECTRONIC COMPUTER SOFTWARE DELIVERY, AS DEFINED IN SUBSECTION (15)(c)(II)(C) OF THIS SECTION, OR INCIDENT TO THE USE OF COMPUTER SOFTWARE HOSTED BY AN APPLICATION SERVICE PROVIDER, AS DEFINED IN SUBSECTION (15)(c)(II)(A) OF THIS SECTION.

(6.4) "PACKING AND CRATING" MEANS TANGIBLE PERSONAL PROPERTY FURNISHED TO PREPARE TANGIBLE PERSONAL PROPERTY PURCHASED AT RETAIL FOR DELIVERY

TO A LOCATION DESIGNATED BY THE PURCHASER.

(6.5) ~~"Precious metal bullion" means any precious metal, including, but not limited to, gold, silver, platinum, and palladium, that has been put through a process of refining and is in such a state or condition that its value depends upon its precious metal content and not its form.~~ "PHOTOCOPYING" MEANS THE SALE OF A DOCUMENT RENDERED ON PAPER OR OTHER SIMILAR MATERIAL BY A MACHINE THAT CREATES AN ACCURATE REPRODUCTION OF THE ORIGINAL. "PHOTOCOPYING" DOES NOT INCLUDE THE PROVISION OF A PHOTOCOPY IN CONNECTION WITH SERVICES IF THE PURCHASER IS NOT CHARGED SEPARATELY FOR PHOTOCOPYING.

(6.6) "PRECIOUS METAL BULLION" MEANS ANY PRECIOUS METAL, INCLUDING, BUT NOT LIMITED TO, GOLD, SILVER, PLATINUM, AND PALLADIUM, THAT HAS BEEN PUT THROUGH A PROCESS OF REFINING AND IS IN SUCH A STATE OR CONDITION THAT ITS VALUE DEPENDS UPON ITS PRECIOUS METAL CONTENT AND NOT ITS FORM.

(15)(a)(I) "Tangible personal property" means corporeal personal property. THE TERM EMBRACES ALL GOODS, WARES, MERCHANDISE, PRODUCTS AND COMMODITIES, AND ALL TANGIBLE OR CORPOREAL THINGS AND SUBSTANCES THAT ARE DEALT IN AND CAPABLE OF BEING POSSESSED AND EXCHANGED, EXCEPT AS SET FORTH IN THIS SUBSECTION (15). The term shall not be construed to include newspapers, as legally defined by section 24-70-102, C.R.S.; preprinted newspaper supplements that become attached to or inserted in and distributed with such newspapers, or direct mail advertising materials that are distributed in Colorado by any person engaged solely and exclusively in the business of providing cooperative direct mail advertising; except that, commencing March 1, 2010, for purposes of the state sales or use tax, "tangible personal property" shall include direct mail advertising materials that are distributed in Colorado by any person engaged solely and exclusively in the business of providing cooperative direct mail advertising.

(b.5)(I) "TANGIBLE PERSONAL PROPERTY" INCLUDES DIGITAL GOODS. THE METHOD OF DELIVERY DOES NOT IMPACT THE TAXABILITY OF A SALE OF TANGIBLE PERSONAL PROPERTY. EXAMPLES OF METHODS USED TO DELIVER TANGIBLE PERSONAL PROPERTY UNDER CURRENT TECHNOLOGY INCLUDE BUT ARE NOT LIMITED TO COMPACT DISC, ELECTRONIC DOWNLOAD, AND INTERNET STREAMING.

(II) AS USED IN THIS SUBSECTION (15)(b.5), "DIGITAL GOOD" MEANS ANY ITEM OF TANGIBLE PERSONAL PROPERTY THAT IS DELIVERED OR STORED BY DIGITAL MEANS, INCLUDING BUT NOT LIMITED TO VIDEO, MUSIC, OR ELECTRONIC BOOKS.

SECTION 9. In Colorado Revised Statutes, 39-26-104, **amend** (1)(a) as follows:

39-26-104. Property and services taxed - definitions - repeal. (1) There is levied and there shall be collected and paid a tax in the amount stated in section 39-26-106 as follows:

(a) On the purchase price paid or charged upon all sales and purchases of tangible personal property at retail, INCLUDING, BUT NOT LIMITED TO, THE AMOUNT CHARGED FOR MAINFRAME COMPUTER ACCESS, PHOTOCOPYING, AND PACKING AND CRATING;

SECTION 10. In Colorado Revised Statutes, 39-26-105, **add** (1)(d)(IV) as

follows:

39-26-105. Vendor liable for tax - definitions - repeal. (1) (d) (IV) BEGINNING JANUARY 1, 2022, A RETAILER IS NOT PERMITTED TO RETAIN ANY MONEY TO COVER THE RETAILER'S EXPENSES IN COLLECTING AND REMITTING TAX IN ACCORDANCE WITH THIS SECTION FOR ANY FILING PERIOD THAT THE RETAILER'S TOTAL TAXABLE SALES WERE GREATER THAN ONE MILLION DOLLARS.

SECTION 11. In Colorado Revised Statutes, 39-29-102, **amend** the introductory portion and (3)(a) as follows:

39-29-102. Definitions. As used in this ~~article~~ ARTICLE 29, unless the context otherwise requires:

(3) "Gross income" means:

(a) For oil and gas, the net amount realized by the taxpayer for sale of the oil or gas, whether the sale occurs at the wellhead or after transportation, manufacturing, and processing of the product. Net amount shall be calculated PURSUANT TO RULES PROMULGATED BY THE DEPARTMENT OF REVENUE on the basis of the gross lease revenues, less deductions for ~~any~~ DIRECT COSTS ACTUALLY PAID OR ACCRUED BY THE TAXPAYER FOR transportation, manufacturing, and processing ~~costs borne by the taxpayer~~ OF THE PRODUCT. FOR PURPOSES OF THIS SUBSECTION (3)(a), DIRECT COSTS INCLUDE DEPRECIATION. Where the parties to the sale are related parties and the sales price is lower than the price for which that oil or gas could otherwise have been sold to a ready, willing, and able buyer and where the taxpayer was legally able to sell the oil or gas to such a buyer, gross income shall be determined by reference to comparable arms-length sales of like kind, quality, and quantity in the same field or area, less deductions for transportation, manufacturing, and processing done prior to the sale. For purposes of this ~~paragraph (a)~~ SUBSECTION (3)(a), "related parties" shall be defined by the department of revenue pursuant to rules and regulations.

SECTION 12. In Colorado Revised Statutes, 39-29-106, **amend** (2)(b), (3), and (4); and **add** (3.5) as follows:

39-29-106. Tax on the severance of coal. (2) (b) On and after July 1, 1999, BUT BEFORE JANUARY 1, 2026, no tax provided for in subsection (1) of this section ~~shall~~ ~~be~~ IS imposed on the first:

(I) Three hundred thousand tons of coal produced in each quarter of the ~~taxable year~~ 2021 TAXABLE YEAR;

(II) TWO HUNDRED FORTY THOUSAND TONS OF COAL PRODUCED IN EACH QUARTER OF THE 2022 TAXABLE YEAR;

(III) ONE HUNDRED EIGHTY THOUSAND TONS OF COAL PRODUCED IN EACH QUARTER OF THE 2023 TAXABLE YEAR;

(IV) ONE HUNDRED TWENTY THOUSAND TONS OF COAL PRODUCED IN EACH QUARTER OF THE 2024 TAXABLE YEAR; AND

(V) SIXTY THOUSAND TONS OF COAL PRODUCED IN EACH QUARTER OF THE 2025 TAXABLE YEAR.

(3) FOR TAXABLE YEARS COMMENCING PRIOR TO JANUARY 1, 2026, there ~~shall be~~ is allowed, as a credit against the tax imposed by subsection (1) of this section, an amount equal to ~~fifty percent~~ THE PERCENTAGE SET FORTH IN SUBSECTION (3.5) OF THIS SECTION of such tax for coal produced from underground mines.

(3.5) THE PERCENTAGE FOR THE CREDITS ALLOWED UNDER SUBSECTIONS (3) AND (4) OF THIS SECTION IS EQUAL TO:

- (a) FIFTY PERCENT FOR THE 2021 TAXABLE YEAR;
- (b) FORTY PERCENT FOR THE 2022 TAXABLE YEAR;
- (c) THIRTY PERCENT FOR THE 2023 TAXABLE YEAR;
- (d) TWENTY PERCENT FOR THE 2024 TAXABLE YEAR; AND
- (e) TEN PERCENT FOR THE 2025 TAXABLE YEAR.

(4) FOR TAXABLE YEARS COMMENCING PRIOR TO JANUARY 1, 2026, there ~~shall be~~ is allowed, as an additional credit against the tax imposed by subsection (1) of this section, an amount equal to ~~fifty percent~~ THE PERCENTAGE SET FORTH IN SUBSECTION (3.5) OF THIS SECTION of such tax for the production of lignitic coal, as such coal is classified by the American society for testing and materials (ASTM) in their D 388 standard for the classification of coals by rank.

SECTION 13. In Colorado Revised Statutes, 39-29-108, **amend** (2)(b); and **add** (2)(d) as follows:

39-29-108. Allocation of severance tax revenues - definitions - repeal. (2) (b) EXCEPT AS SET FORTH IN SUBSECTION (2)(d) OF THIS SECTION, of the total gross receipts realized from the severance taxes imposed on minerals and mineral fuels under the provisions of this article after June 30, 2017, fifty percent shall be credited to the state severance tax trust fund created by section 39-29-109, and fifty percent shall be credited to the local government severance tax fund created by section 39-29-110.

(d) THE STATE TREASURER SHALL CREDIT AN AMOUNT OF THE INCREASED COAL TAX THAT IS ATTRIBUTABLE TO THE REDUCTION OR DISCONTINUATION OF THE EXEMPTION IN SECTION 39-29-106 (2)(b) AND THE CREDITS IN SECTION 39-29-106 (3) AND (4) TO THE JUST TRANSITION CASH FUND CREATED IN SECTION 8-83-504 (1).

SECTION 14. In Colorado Revised Statutes, 8-83-504, **amend** (1) as follows:

8-83-504. Just transition cash fund. (1) There is hereby created in the state treasury the just transition cash fund. The fund consists of money credited to the fund IN ACCORDANCE WITH SECTION 39-29-108 (2)(d) and any other money that the general assembly may appropriate or transfer to the fund. The state treasurer shall credit all interest and income derived from the deposit and investment of money in

the fund to the fund. Subject to annual appropriation by the general assembly, the office may expend money from the fund for purposes specified in this part 5, including paying for the office's direct and indirect costs in administering this part 5.

SECTION 15. Appropriation. (1) For the 2021-22 state fiscal year, \$274,142 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) \$87,250 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 1.3 FTE;

(b) \$7,955 for use by the taxation business group for operating expenses related to taxation services;

(c) \$178,425 for tax administration IT system (GenTax) support; and

(d) \$512 for the purchase of document management services.

(2) For the 2021-22 state fiscal year, \$512 is appropriated to the department of personnel. This appropriation is from reappropriated funds received from the department of revenue under subsection (1)(d) of this section. To implement this act, the department of personnel may use this appropriation to provide document management services for the department of revenue.

(3) For the 2021-22 state fiscal year, \$138,500 is appropriated to the department of local affairs for use by the executive director's office. This appropriation is from the general fund. To implement this act, the department may use this appropriation for the purchase of information technology services.

(4) For the 2021-22 state fiscal year, \$138,500 is appropriated to the office of the governor for use by the office of information technology. This appropriation is from reappropriated funds received from the department of local affairs under subsection (3) of this section. To implement this act, the office may use this appropriation to provide information technology services for the department of local affairs.

SECTION 16. Severability. If any section of this House Bill 21-1312, or the application thereof to any person or circumstance is held invalid, such invalidity does not affect other provisions, applications, or sections of this House Bill 21-1312 that can be given effect without the invalid provision, application, or section, and to this end the provisions, applications, and sections of this House Bill 21-1312 are declared to be severable.

SECTION 17. Effective date. This act takes effect July 1, 2021; except that section 11 of this act takes effect on January 1, 2022.

SECTION 18. 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