

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0488.03 Pierce Lively x2059

HOUSE BILL 26-1221

HOUSE SPONSORSHIP

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A BILL FOR AN ACT

101 **CONCERNING THE ADJUSTMENT OF CERTAIN TAX EXPENDITURES.**

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>.)

The bill adjusts 3 existing tax expenditures.

- **Section 2** of the bill limits the alternative minimum tax credit to income tax years commencing prior to January 1, 2026;
- **Section 4** requires a corporation, for purposes of determining their state taxable income for state income tax years commencing on or after January 1, 2027, to add to their federal taxable income the amount, if any, that the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters or bold & italic numbers indicate new material to be added to existing law.

Dashes through the words or numbers indicate deletions from existing law.

- taxpayer claimed as a deduction on the taxpayer's federal tax return pursuant to the employee remuneration deduction allowed pursuant to section 162 (m) of the internal revenue code; and
- **Section 5** limits the period of time that net operating losses generated in income tax years commencing on or after January 1, 2027, can be carried forward from 20 years to 10 years and limits the amount of losses that may be claimed to 70% rather than 80%.

Section 3 creates a new tax credit. The new tax credit allows taxpayers to claim a refundable tax credit, in addition to the child tax credit and the family affordability tax credit, in an amount determined by the amount and age of the taxpayer's children and the taxpayer's income. The total amount of the new tax credit is adjusted annually based on legislative council staff projections, such that the total amount of the new tax credit claimed in an income tax year is projected to be the same as the amount of revenue raised in **sections 2, 4, and 5**.

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

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

4 (a) The general assembly has an ongoing responsibility to review,
5 evaluate, and update the state tax code within constitutional limitations
6 to ensure that the state tax code is effective, equitable, and aligned with
7 Colorado's priorities;

8 (b) (I) (A) The Colorado executive compensation income tax
9 deduction has changed frequently in recent years due to changes in the
10 federal tax code;

11 (B) A taxpayer can claim the executive compensation income tax
12 deduction regardless of whether the executives earning that compensation
13 reside or work in Colorado; and

14 (C) To ensure that the state tax code is effective, equitable, and
15 aligned with Colorado's priorities, and insulated from changes in the
16 federal tax code, the executive compensation income tax deduction

1 should be limited to only an income tax deduction for a set amount of
2 executive compensation.

3 (II) (A) The Colorado net operating loss income tax deduction,
4 like the Colorado executive compensation income tax deduction, has
5 changed frequently in recent years due to changes in the federal tax code;

6 (B) C corporations that have the majority of their activities and
7 investment outside of Colorado may claim the Colorado net operating
8 loss income tax deduction; and

9 (C) To ensure that the state tax code is effective, equitable, and
10 aligned with Colorado's priorities, and insulated from changes in the
11 federal tax code, the net operating loss income tax deduction should be
12 limited.

13 (III) (A) The wealthiest Colorado individual taxpayers have
14 received significant tax benefits as a result of recent federal law that
15 modified the computation of federal taxable income;

16 (B) One of these benefits was a more generous alternative
17 minimum tax credit;

18 (C) To ensure that the state tax code is effective, equitable, and
19 aligned with Colorado's priorities, the alternative minimum tax credit
20 should be repealed.

21 (c) (I) Colorado state income tax is determined based on the
22 amount of a person's federal taxable income;

23 (II) Recent federal law modified the computation of federal
24 taxable income and so impacted Colorado state income tax revenue;

25 (III) The net impact of the recent federal modification to the
26 computation of federal taxable income was a reduction in state income
27 tax revenue;

(IV) The amount and availability of the family affordability tax credit is determined in part by the amount of state income tax revenue;

(V) Therefore, by modifying the computation of federal taxable income, federal law impacted the amount and availability of the family affordability tax credit; and

(VI) At least in part due to the enactment of recent federal law, the family affordability tax credit will not be available for the 2026 state income tax year and will be available in a reduced amount for income tax years 2027 and 2028;

(d) (I) In establishing the family affordability tax credit, the general assembly found and declared that:

(A) Colorado families struggle to afford many necessary goods and services, such as child care, housing, and health care. Eighty-three percent of Colorado parents worry that their children won't be able to afford to live in the state in the future;

(B) Targeted tax credits are a proven tool to lift families out of poverty. Research has shown that families that claim these types of tax credits, such as the state and federal child tax credit and the state and federal earned income tax credit, have better health, improved schooling outcomes, and increased adult earning potential. As the cost of raising children has increased, a family affordability tax credit is critical for the well-being of many children and families across Colorado.

(C) According to the Institute on Taxation and Economic Policy, "[t]o cut child poverty rates by half, the majority of states would require a base credit value of between three thousand dollars and four thousand five hundred dollars per child plus a twenty percent boost for young children." When coupled with the state and federal earned income tax

1 credit and the state and federal child tax credit, the additional investment
2 provided by the family affordability tax credit would establish Colorado
3 as a national leader in equitable economic policy.

4 (D) Colorado is dealing with rising costs and funding shortfalls in
5 many areas across our state, and it is necessary to provide tax credits to
6 the people who need it most in a way that will do the most good.
7 Establishing the family affordability tax credit is a proven way to do that;
8 and

9 (E) By prioritizing the state's lowest-income families, expanding
10 the child age eligibility, and including more families, the state can provide
11 research-backed investments for families. Through thoughtful and
12 strategic investment, Colorado can cut child poverty nearly in half.

13 (II) Therefore, it is a priority of Colorado to provide a tax credit
14 that targets the same taxpayers that the family affordability tax credit
15 targeted, to offset the reduction in the family affordability tax credit.

16 (e) (I) This House Bill 26-____ constitutes a single comprehensive
17 tax policy change that better aligns the state tax code with Colorado's
18 decision to prioritize low- and middle-income families with children by,
19 at least partially, mitigating the effect of recent federal law on the family
20 affordability tax credit by creating a tax credit that targets the same
21 population targeted by the family affordability tax credit while also
22 mitigating the reduction to wealthy taxpayers and corporations' tax
23 burdens as a result of recent federal law;

24 (II) The income tax credit created in this House Bill 26-____
25 reduces state tax revenue in an amount equal to or greater than the
26 amount of state revenue gain attributable to the changes made in this
27 House Bill 26-____;

3 (IV) Therefore, consistent with the Colorado Supreme Court's
4 holding in *TABOR Found. v. Reg'l Transp. Dist.*, 2018 CO 29, that a tax
5 policy change that causes either no net district tax revenue gain or a net
6 district tax revenue gain that is only incidental and de minimis does not
7 require voter approval under section 20 (4)(a) of article X of the state
8 constitution, this House Bill 26-_____ is not a tax policy change that
9 requires voter approval.

10 **SECTION 2.** In Colorado Revised Statutes, 39-22-105, amend
11 (3)(b) and (4); and **add** (3)(c) as follows:

39-22-105. Alternative minimum tax - repeal.

18 (c) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE DECEMBER 31,
19 2031.

27 SECTION 3. In Colorado Revised Statutes, **add** 39-22-131 as

1 follows:

2 **39-22-131. Family affordability credit - tax preference**
3 **performance statement - legislative declaration - definitions.**

4 (1) (a) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH
5 REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE
6 A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY
7 LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY HEREBY FINDS AND
8 DECLARES THAT THE PURPOSES OF THE INCOME TAX CREDIT CREATED IN
9 THIS SECTION ARE THE SAME AS THE FAMILY AFFORDABILITY TAX CREDIT:
10 TO SUBSTANTIALLY REDUCE CHILD POVERTY, MAKE COLORADO MORE
11 AFFORDABLE FOR FAMILIES, AND HELP FAMILIES AFFORD EXPENSES
12 ASSOCIATED WITH HAVING CHILDREN BY PROVIDING TAX RELIEF FOR
13 CERTAIN INDIVIDUALS.

14 (b) THE GENERAL ASSEMBLY AND THE STATE AUDITOR, IN
15 CONSULTATION WITH THE DEPARTMENT, SHALL MEASURE THE
16 EFFECTIVENESS OF THE INCOME TAX CREDIT CREATED IN THIS SECTION IN
17 COMBINATION WITH THE FAMILY AFFORDABILITY TAX CREDIT AND, IN THE
18 SAME MANNER AS THE GENERAL ASSEMBLY AND THE STATE AUDITOR
19 MEASURE THE EFFECTIVENESS OF THE FAMILY AFFORDABILITY TAX CREDIT
20 BY DETERMINING THE NUMBER OF COLORADO FAMILIES THAT, AFTER
21 CLAIMING A CREDIT PURSUANT TO THIS SECTION AND THE FAMILY
22 AFFORDABILITY CREDIT, NO LONGER FALL BELOW THE FEDERAL POVERTY
23 LEVEL IN THE TAX YEAR IN WHICH THEY CLAIMED THE CREDITS.

24 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
25 REQUIRES:

26 (a) "CREDIT" MEANS THE CREDIT AGAINST INCOME TAX CREATED
27 IN THIS SECTION.

(b) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

2 (c) "ELIGIBLE CHILD" MEANS A QUALIFYING CHILD, AS DEFINED IN
3 SECTION 152 (c) OF THE "INTERNAL REVENUE CODE OF 1986"; EXCEPT
4 THAT THE AGE REQUIREMENTS ARE AS SET FORTH IN SUBSECTIONS
5 (3)(a)(I), (3)(a)(II), (3)(b)(I), AND (3)(b)(II) OF THIS SECTION.

6 (d) "FEDERAL POVERTY LEVEL" MEANS THE POVERTY LINE THAT
7 IS REQUIRED TO BE UPDATED ANNUALLY WITHIN THE FEDERAL POVERTY
8 GUIDELINES ADOPTED BY THE UNITED STATES DEPARTMENT OF HEALTH
9 AND HUMAN SERVICES PURSUANT TO 42 U.S.C. SEC. 9902 (2).

10 (e) "INFLATION" MEANS THE ANNUAL PERCENTAGE CHANGE IN THE
11 UNITED STATES DEPARTMENT OF LABOR BUREAU OF LABOR STATISTICS
12 CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKWOOD FOR ALL
13 ITEMS PAID BY ALL URBAN CONSUMERS, OR ITS APPLICABLE SUCCESSOR
14 INDEX.

22 (I) EACH ELIGIBLE CHILD OF THE RESIDENT INDIVIDUAL WHO IS
23 FIVE YEARS OLD OR YOUNGER AT THE CLOSE OF THE INCOME TAX YEAR IN
24 AN AMOUNT DETERMINED BY STAFF OF THE LEGISLATIVE COUNCIL
25 PURSUANT TO SUBSECTION (5)(b) OF THIS SECTION; AND

26 (II) EACH ELIGIBLE CHILD OF THE RESIDENT INDIVIDUAL WHO IS SIX
27 YEARS OLD OR OLDER BUT LESS THAN SEVENTEEN YEARS OLD AT THE

1 CLOSE OF THE INCOME TAX YEAR IN AN AMOUNT THAT IS SEVENTY-FIVE
2 PERCENT OF THE AMOUNT ALLOWED IN SUBSECTION (3)(a)(I) OF THIS
3 SECTION.

4 (b) IN ADDITION TO THE CHILD TAX CREDIT ALLOWED BY SECTION
5 39-22-129 AND, FOR INCOME TAX YEARS COMMENCING ON AND AFTER
6 JANUARY 1, 2026, BUT BEFORE JANUARY 1, 2034, THE FAMILY
7 AFFORDABILITY TAX CREDIT ALLOWED BY SECTION 39-22-130, FOR
8 INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2026, TWO
9 RESIDENT INDIVIDUALS WHO FILE A JOINT RETURN ARE ALLOWED A FAMILY
10 AFFORDABILITY TAX CREDIT AGAINST THE INCOME TAXES DUE IMPOSED
11 PURSUANT TO THIS ARTICLE 22 FOR:

12 (I) EACH ELIGIBLE CHILD OF THE RESIDENT INDIVIDUALS WHO IS
13 FIVE YEARS OLD OR YOUNGER AT THE CLOSE OF THE INCOME TAX YEAR IN
14 AN AMOUNT DETERMINED BY STAFF OF THE LEGISLATIVE COUNCIL
15 PURSUANT TO SUBSECTION (5)(b) OF THIS SECTION; AND

16 (II) EACH ELIGIBLE CHILD OF THE RESIDENT INDIVIDUALS WHO IS
17 SIX YEARS OLD OR OLDER BUT LESS THAN SEVENTEEN YEARS OLD AT THE
18 CLOSE OF THE INCOME TAX YEAR IN AN AMOUNT THAT IS SEVENTY-FIVE
19 PERCENT OF THE AMOUNT ALLOWED IN SUBSECTION (3)(b)(I) OF THIS
20 SECTION.

21 (4) (a) NOTWITHSTANDING SUBSECTION (3) OF THIS SECTION, FOR
22 INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2026, THE
23 CREDIT AMOUNTS IN:

24 (I) SUBSECTION (3)(a)(I) OF THIS SECTION ARE REDUCED, BUT NOT
25 BELOW ZERO, BY AN AMOUNT EQUAL TO SIX AND EIGHT HUNDRED
26 SEVENTY-FIVE ONE-THOUSANDTHS PERCENT FOR EACH FIVE THOUSAND
27 DOLLARS BY WHICH A RESIDENT INDIVIDUAL'S ADJUSTED GROSS INCOME

1 EXCEEDS FIFTEEN THOUSAND DOLLARS; AND

2 (II) SUBSECTION (3)(b)(I) OF THIS SECTION ARE REDUCED, BUT NOT
3 BELOW ZERO, BY AN AMOUNT EQUAL TO SIX AND EIGHT HUNDRED
4 SEVENTY-FIVE ONE-THOUSANDTHS PERCENT FOR EACH FIVE THOUSAND
5 DOLLARS BY WHICH TWO RESIDENT INDIVIDUALS' ADJUSTED GROSS
6 INCOME EXCEEDS TWENTY-FIVE THOUSAND DOLLARS.

7 (b) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
8 1, 2027, THE DEPARTMENT SHALL ADJUST THE FEDERAL ADJUSTED GROSS
9 INCOME AMOUNTS SET FORTH IN THIS SUBSECTION (4) TO REFLECT
10 INFLATION FOR EACH INCOME TAX YEAR IN WHICH THE CREDIT DESCRIBED
11 IN THIS SECTION IS ALLOWED IF CUMULATIVE INFLATION SINCE THE LAST
12 ADJUSTMENT, WHEN APPLIED TO THE CURRENT LIMITS, RESULTS IN AN
13 INCREASE OF AT LEAST ONE THOUSAND DOLLARS WHEN THE ADJUSTED
14 LIMITS ARE ROUNDED TO THE NEAREST ONE THOUSAND DOLLARS.

15 (5) BEGINNING WITH THE QUARTERLY DECEMBER REVENUE
16 FORECAST THAT LEGISLATIVE COUNCIL STAFF PRESENTS IN DECEMBER OF
17 2026, AND FOR EACH QUARTERLY DECEMBER REVENUE FORECAST
18 THEREAFTER, AS PART OF THE QUARTERLY DECEMBER REVENUE
19 FORECAST, LEGISLATIVE COUNCIL STAFF SHALL DETERMINE:

20 (a) FOR THE CURRENT INCOME TAX YEAR, A PROJECTION OF THE
21 AMOUNT OF REVENUE GAIN DIRECTLY ATTRIBUTABLE TO THE CHANGES
22 MADE IN THIS HOUSE BILL 26-____, NOTWITHSTANDING THE TAX CREDIT
23 CREATED IN THIS SECTION;

24 (b) A DOLLAR AMOUNT OF THE CREDIT AVAILABLE PURSUANT TO
25 SUBSECTIONS (3)(a)(I) AND (3)(b)(I) OF THIS SECTION, WHICH DOLLAR
26 AMOUNT MUST BE THE SAME FOR BOTH SUBSECTIONS (3)(a)(I) AND
27 (3)(b)(I) OF THIS SECTION, SUCH THAT THE STAFF OF THE LEGISLATIVE

1 COUNCIL PROJECTS, FOR THE CURRENT STATE INCOME TAX YEAR, THAT
2 THE TOTAL DOLLAR AMOUNT OF CREDITS CLAIMED PURSUANT TO
3 SUBSECTION (3) WILL EQUAL THE DOLLAR AMOUNT OF REVENUE GAIN
4 THAT STAFF OF THE LEGISLATIVE COUNCIL DETERMINES, PURSUANT TO
5 SUBSECTION (5)(a) OF THIS SECTION, IS DIRECTLY ATTRIBUTABLE TO THE
6 CHANGES MADE IN THIS HOUSE BILL 26-____, NOTWITHSTANDING THE
7 TAX CREDIT CREATED IN THIS SECTION.

8 (6) NO LATER THAN TWO WEEKS BEFORE THE QUARTERLY
9 DECEMBER REVENUE FORECAST THAT LEGISLATIVE COUNCIL STAFF
10 PRESENTS IN DECEMBER OF 2027, AND EACH DECEMBER REVENUE
11 FORECAST THEREAFTER, THE DEPARTMENT SHALL DELIVER A REPORT TO
12 THE STAFF OF THE LEGISLATIVE COUNCIL THAT DESCRIBES THE REVENUE
13 GAIN DIRECTLY ATTRIBUTABLE TO THE CHANGES MADE IN THIS HOUSE
14 BILL 26-____ FOR THE PREVIOUS INCOME TAX YEAR, NOTWITHSTANDING
15 THE TAX CREDIT CREATED IN THIS SECTION.

16 (7) IN THE CASE OF A PART-YEAR RESIDENT, THE CREDIT ALLOWED
17 UNDER THIS SECTION IS APPORTIONED IN THE RATIO DETERMINED UNDER
18 SECTION 39-22-110 (1).

19 (8) THE CREDIT ALLOWED UNDER THIS SECTION IS NOT
20 CONSIDERED TO BE INCOME OR RESOURCES FOR THE PURPOSE OF
21 DETERMINING ELIGIBILITY FOR THE PAYMENT OF PUBLIC ASSISTANCE
22 BENEFITS AND MEDICAL ASSISTANCE BENEFITS AUTHORIZED UNDER STATE
23 LAW OR FOR A PAYMENT MADE UNDER ANY OTHER PUBLICLY FUNDED
24 PROGRAM.

25 (9) THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION
26 THAT EXCEEDS THE RESIDENT INDIVIDUAL'S INCOME TAXES DUE IS
27 REFUNDED TO THE INDIVIDUAL.

5 (11) NOTWITHSTANDING SECTION 39-21-304(4), THE CREDIT DOES
6 NOT REPEAL AFTER A SPECIFIED PERIOD OF TAX YEARS.

7 **SECTION 4.** In Colorado Revised Statutes, 39-22-304, add
8 (2)(m) as follows:

9 **39-22-304. Net income of corporation - legislative declaration**
10 **- definitions - repeal.**

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

12 (m) FOR STATE INCOME TAX YEARS COMMENCING ON OR AFTER
13 JANUARY 1, 2027, THE AMOUNT, IF ANY, THAT THE TAXPAYER CLAIMED AS
14 A DEDUCTION ON THE TAXPAYER'S FEDERAL TAX RETURN PURSUANT TO
15 THE EMPLOYEE REMUNERATION DEDUCTION ALLOWED PURSUANT TO
16 SECTION 162 (m) OF THE INTERNAL REVENUE CODE.

17 **SECTION 5.** In Colorado Revised Statutes, 39-22-504, amend
18 (1)(b) and (3)(b); and **add** (1)(c) and (3)(c) as follows:

19 **39-22-504. Net operating losses.**

20 (1) (b) For losses incurred after December 31, 2017, AND ON OR
21 BEFORE DECEMBER 31, 2026, the eighty percent limitation set forth in
22 section 172 (a)(2) of the internal revenue code shall apply without regard
23 to the amendments made in section 2303 of the March 2020 "Coronavirus
24 Aid, Relief, and Economic Security Act". Pub.L. 116-136.

25 (c) FOR LOSSES INCURRED AFTER DECEMBER 31, 2026, THE EIGHTY
26 PERCENT LIMITATION SET FORTH IN SECTION 172 (a)(2) OF THE INTERNAL
27 REVENUE CODE SHALL BE APPLIED AS A SEVENTY PERCENT LIMITATION

1 BUT SHALL OTHERWISE APPLY WITHOUT REGARD TO THE AMENDMENTS
2 MADE IN SECTION 2303 OF THE MARCH 2020 "CORONAVIRUS AID, RELIEF,
3 AND ECONOMIC SECURITY ACT", PUB.L. 116-136.

4 (3) (b) Net operating losses of corporations generated in income
5 tax years commencing on or after January 1, 2021, AND BEFORE JANUARY
6 1, 2027, may be carried forward for twenty years. Net operating losses of
7 corporations may not be carried back to an earlier tax year.

8 (c) NET OPERATING LOSSES OF CORPORATIONS GENERATED IN
9 INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2027, MAY BE
10 CARRIED FORWARD FOR TEN YEARS. NET OPERATING LOSSES OF
11 CORPORATIONS MAY NOT BE CARRIED BACK TO AN EARLIER TAX YEAR.

12 **SECTION 6. Act subject to petition - effective date.** This act
13 takes effect at 12:01 a.m. on the day following the expiration of the
14 ninety-day period after final adjournment of the general assembly (August
15 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a
16 referendum petition is filed pursuant to section 1 (3) of article V of the
17 state constitution against this act or an item, section, or part of this act
18 within such period, then the act, item, section, or part will not take effect
19 unless approved by the people at the general election to be held in
20 November 2026 and, in such case, will take effect on the date of the
21 official declaration of the vote thereon by the governor.