

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

ENGROSSED

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

LLS NO. 21-0502.01 Ed DeCecco x4216

HOUSE BILL 21-1312

HOUSE SPONSORSHIP

Weissman and Sirota,

SENATE SPONSORSHIP

Hansen and Moreno,

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING TAXATION, AND, IN CONNECTION THEREWITH,**
102 **NARROWING THE SCOPE OF THE HOME OFFICE INSURANCE**
103 **PREMIUM TAX RATE REDUCTION AND THE ANNUITIES**
104 **CONSIDERATION EXEMPTION FOR THE INSURANCE PREMIUM**
105 **TAX; FOR PURPOSES OF THE PROPERTY TAX, REQUIRING THE**
106 **ACTUAL VALUE OF REAL PROPERTY TO REFLECT THE VALUE OF**
107 **THE FEE SIMPLE ESTATE AND REQUIRING PERSONAL PROPERTY**
108 **TO BE BASED ON THE PROPERTY'S VALUE IN USE; INCREASING**
109 **THE PER-SCHEDULE EXEMPTION FOR BUSINESS PERSONAL**
110 **PROPERTY TAX AND REIMBURSING LOCAL GOVERNMENTS FOR**
111 **THE LOST TAX REVENUE; FOR PURPOSES OF THE SALES AND USE**
112 **TAX, CODIFYING THAT THE DEFINITION OF TANGIBLE PERSONAL**
113 **PROPERTY INCLUDES DIGITAL GOODS AND SPECIFYING 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 statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
Amended 2nd Reading
May 21, 2021

101 TAX ON SALES AND PURCHASES OF TANGIBLE PERSONAL
102 PROPERTY INCLUDES AMOUNTS CHARGED FOR MAINFRAME
103 COMPUTER ACCESS, PHOTOCOPYING, AND PACKING AND
104 CRATING; DISALLOWING THE SALES TAX VENDOR FEE FOR
105 RETAILERS WITH A SUBSTANTIAL AMOUNT OF TAXABLE SALES
106 DURING THE FILING PERIOD; FOR THE SEVERANCE TAX ON OIL
107 AND GAS, REQUIRING THE NET-BACK DEDUCTIONS USED TO
108 DETERMINE GROSS INCOME BE DIRECT COSTS ACTUALLY PAID BY
109 THE TAXPAYER; PHASING-OUT TAX CREDITS AND EXEMPTIONS
110 FOR THE SEVERANCE TAX ON COAL; AND MAKING AN
111 APPROPRIATION.

Bill Summary

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

The bill makes changes to several state and local government taxes.

Insurance premium tax. Currently, the insurance premium tax is equal to 2% of premiums collected or contracted for covering property or risks in this state; except that a company that is deemed to maintain a home office or regional home office in this state pays tax of 1%. **Section 2** of the bill requires a company to have at least 2.5% of its total domestic workforce in the state in order for the company to be deemed to maintain a home office or regional home office. This section also narrows the tax exemption for annuities considerations to those that are purchased in connection with a qualified retirement plan, a Roth 401(k), or an individual retirement account. For the purpose of auditing a company's tax statement, section 2 also authorizes the commissioner of insurance to appoint an independent examiner to conduct an examination on behalf of the commissioner.

Property tax. For purposes of imposing the property tax, **section 4** requires the actual value of real property to reflect the value of the fee simple estate. **Section 5** requires that the actual value of personal property be determined based on the property's value in use, which will be defined by the property tax administrator.

There is an exemption from property tax for business personal

property that would otherwise be listed on a single personal property if the property is less than a certain amount, which increases with inflation each property tax cycle. For the next property tax cycle, **section 6** increases the exemption from \$7,900 to \$50,000. Similar to the reimbursement for the homestead exemption, the state is required to reimburse local governments for lost property tax revenue caused by the increase. The first reimbursement will be based on actual property tax schedules filed, and future reimbursements will be adjusted estimates based on the initial amount.

Sales and use tax. The state sales and use tax is imposed on the sale and use of tangible personal property. **Section 7** codifies the department of revenue rule that the definition of "tangible personal property" includes "digital goods". **Section 8** specifies that the state sales tax applies to amounts charged for mainframe computer access, photocopying, and packing and crating.

A retailer who collects state sales tax is currently allowed to retain 4% of the state sales taxes collected, with a monthly cap of \$1,000, as compensation for the retailer's expenses incurred in collecting and remitting the tax (vendor fee). Beginning January 1, 2022, **section 9** eliminates the vendor fee for any filing period that the retailer's total taxable sales were greater than \$1 million.

Severance taxes. The severance tax on oil and gas is currently imposed on gross income, which is equal to the net amount realized for the sale of the oil and gas. The net amount realized is equal to the gross lease revenues, less deductions for any transportation, manufacturing, or processing costs by the taxpayer borne by the taxpayer (netback deductions). **Section 10** limits the netback deductions to direct costs actually paid by the taxpayer for those purposes, which disallows costs of capital and other indirect expenses.

Currently, the first 300,000 tons of coal produced in each quarter is exempt from the property tax. There is also a tax credit equal to 50% for coal produced from underground mines and another credit in the same amount for lignitic coal. Beginning with the 2022 taxable year, **section 11** phases out the quarterly exemption and both tax credits. The additional severance tax that results from these changes is credited to the just transition cash fund under **section 12**.

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

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

4 (a) (I) The insurance premium tax rate for a home office or

1 regional home office was designed to create an incentive for insurance
2 companies to maintain a substantial workforce presence in the state, but
3 it has become clear that this incentive has failed to achieve the intended
4 result;

5 (II) The annuities considerations exemption to the insurance
6 premium tax was created to promote retirement annuities as a form of
7 retirement income security for workers, but over the years it has been
8 expanded due to the use of annuities as tax shelters;

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

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

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

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

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

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

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

26 (IV) The delivery methods specified in this act are not meant to
27 be exhaustive and sales of digital goods that are delivered via new

1 technologies should also be taxed; and

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

6 (d) (I) In *BP Am. Prod. Co. v. Colo. Dep't of Revenue*, 2016 CO
7 23, the Colorado supreme court held that the "cost of capital" associated
8 with natural gas transportation and processing facilities was a deductible
9 cost under section 39-29-102 (3)(a), Colorado Revised Statutes, which
10 expanded the deduction well beyond the general assembly's original
11 intent; and

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

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

20 **10-3-209. Tax on premiums collected - exemptions - penalties.**

21 (1) (b) (II) For purposes of this ~~paragraph (b)~~ SUBSECTION (1)(b), EXCEPT
22 AS OTHERWISE PROVIDED IN SUBSECTION (1)(b)(II.5), any company is
23 deemed to maintain a home office or regional home office in this state if
24 such company either:

25 (II.5) TO BE DEEMED TO MAINTAIN A HOME OFFICE OR REGIONAL
26 HOME OFFICE IN THIS STATE, A COMPANY MUST MEET ONE OF THE CRITERIA
27 SET FORTH IN SUBSECTION (1)(b)(II) OF THIS SECTION AND ALSO HAVE A

1 WORKFORCE IN THE STATE THAT IS GREATER THAN OR EQUAL TO:

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

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

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

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

16 (d) (IV) Except to the extent provided in subsection (2) of this
17 section, the tax imposed by this section shall not apply to premiums
18 collected or contracted for after December 31, 1968, on policies or
19 contracts issued in connection with a pension, profit sharing, or annuity
20 plan established by an employer for employees if contributions by such
21 employer thereunder are deductible by such employer in determining such
22 employer's net income as defined in section 39-22-304, ~~C.R.S.~~, and shall
23 not apply to premiums collected or contracted for after December 31,
24 1968, on policies or contracts purchased for an employee by an employer
25 if such employer is exempt under section 39-22-112 ~~C.R.S.~~, from the tax
26 imposed by article 22 of title 39, ~~C.R.S.~~, or is a state, a political
27 subdivision of a state, or an agency or instrumentality of a state or

1 political subdivision of a state. ~~Except to the extent provided in~~
2 ~~subsection (2) of this section,~~ The tax imposed by this section shall not
3 apply to annuity considerations collected or contracted for after December
4 31, 1976, EXCEPT TO THE EXTENT PROVIDED IN SUBSECTION (2) OF THIS
5 SECTION AND EXCEPT FOR, TAXES THAT ARE DUE AND PAYABLE FOR THE
6 CALENDAR YEAR 2021 AND EACH CALENDAR YEAR THEREAFTER, THIS
7 EXEMPTION ONLY APPLIES TO ANNUITY CONSIDERATIONS THAT ARE
8 PURCHASED IN CONNECTION WITH A QUALIFIED RETIREMENT PLAN, A ROTH
9 401(k) UNDER SECTION 402A OF THE INTERNAL REVENUE CODE, OR AN
10 INDIVIDUAL RETIREMENT ACCOUNT UNDER SECTION 408(a) OF THE
11 INTERNAL REVENUE CODE.

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

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

21 **39-1-102. Definitions.** As used in articles 1 to 13 of this title 39,
22 unless the context otherwise requires:

23 (3.7) "FEE SIMPLE ESTATE" MEANS THE LARGEST POSSIBLE ESTATE
24 ALLOWED BY LAW, AN ESTATE THAT HAS POTENTIALLY INFINITE
25 DURATION.

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

1 **39-1-103. Actual value determined - when.** (5) (a) All real and
2 personal property shall be appraised and the actual value thereof for
3 property tax purposes determined by the assessor of the county wherein
4 such property is located. The actual value of such property, other than
5 agricultural lands exclusive of building improvements thereon and other
6 than residential real property and other than producing mines and lands
7 or leaseholds producing oil or gas, shall be that value determined by
8 appropriate consideration of the cost approach, the market approach, and
9 the income approach to appraisal. The assessor shall consider and
10 document all elements of such approaches that are applicable prior to a
11 determination of actual value. THE ACTUAL VALUE REFLECTS THE VALUE
12 OF THE FEE SIMPLE ESTATE. Despite any orders of the state board of
13 equalization, no assessor shall arbitrarily increase the valuations for
14 assessment of all parcels represented within the abstract of a county or
15 within a class or subclass of parcels on that abstract by a common
16 multiple in response to the order of said board. If an assessor is required,
17 pursuant to the order of said board, to increase or decrease valuations for
18 assessment, such changes shall be made only upon individual valuations
19 for assessment of each and every parcel, using each of the approaches to
20 appraisal specified in this ~~paragraph (a)~~ SUBSECTION (5)(a), if applicable.
21 The actual value of agricultural lands, exclusive of building
22 improvements thereon, shall be determined by consideration of the
23 earning or productive capacity of such lands during a reasonable period
24 of time, capitalized at a rate of thirteen percent. Land that is valued as
25 agricultural and that becomes subject to a perpetual conservation
26 easement shall continue to be valued as agricultural notwithstanding its
27 dedication for conservation purposes; except that, if any portion of such

1 land is actually used for nonagricultural commercial or nonagricultural
2 residential purposes, that portion shall be valued according to such use.
3 Nothing in this subsection (5) shall be construed to require or permit the
4 reclassification of agricultural land or improvements, including residential
5 property, due solely to subjecting the land to a perpetual conservation
6 easement. The actual value of residential real- property shall be
7 determined solely by consideration of the market approach to appraisal.
8 A gross rent multiplier may be considered as a unit of comparison within
9 the market approach to appraisal. The valuation for assessment of
10 producing mines and of lands or leaseholds producing oil or gas shall be
11 determined pursuant to articles 6 and 7 of this ~~title~~ TITLE 39.

12 **SECTION 5.** In Colorado Revised Statutes, 39-1-104, **amend**
13 (12.3)(a)(I) as follows:

14 **39-1-104. Valuation for assessment - definitions.**

15 (12.3) (a) (I) The actual value of personal property ~~shall be~~ IS determined
16 by appropriate consideration of such of the three approaches specified in
17 section 39-1-103 (5)(a) as are applicable to the appraisal of such property
18 AND IS BASED ON THE PROPERTY'S VALUE IN USE. Subject to review and
19 approval pursuant to section 39-2-109 (1)(e), the administrator shall
20 prepare and publish appraisal procedures and instructions for the annual
21 appraisal of such property that ~~will~~ include A DEFINITION OF "VALUE IN
22 USE" AND a factor or factors to adjust the actual value for the current year
23 of assessment to the level of value applicable to real property.

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

27 **39-3-119.5. Personal property - exemption - reimbursement to**

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

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

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

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

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

12 AND

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

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

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

6 (C) IF, UNDER SUBSECTION (3)(f) OF THIS SECTION, THE STATE
7 TREASURER NOTIFIES THE ADMINISTRATOR THAT NOT ALL COUNTIES HAVE
8 RECEIVED REIMBURSEMENT WARRANTS FOR LOST PROPERTY TAX REVENUE
9 FOR THE AMOUNTS SPECIFIED IN SUBSECTION (3)(d) OF THIS SECTION, THEN
10 BEGINNING WITH THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1
11 THAT FOLLOWS THE APRIL 16 NOTICE, AND FOR ALL PROPERTY TAX YEARS
12 THEREAFTER, THE AMOUNT OF THE EXEMPTION IN SUBSECTION (1) OF THIS
13 SECTION IS THE ALTERNATIVE EXEMPTION AMOUNT. THEREAFTER, THE
14 ALTERNATIVE EXEMPTION IS ADJUSTED BIENNIALLY TO ACCOUNT FOR
15 INFLATION IN THE SAME MANNER AS SET FORTH IN SUBSECTION
16 (2)(b)(I)(A) OF THIS SECTION, AND THE ADMINISTRATOR SHALL CERTIFY
17 THE AMOUNT OF THE EXEMPTION FOR THE NEXT TWO-YEAR CYCLE AND
18 PUBLISH THE AMOUNT ON THE WEBSITE MAINTAINED BY THE DIVISION OF
19 PROPERTY TAXATION IN THE DEPARTMENT OF LOCAL AFFAIRS.

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

27 (II) FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1,

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

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

13 (c) (I) FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY
14 1, 2022, EACH ASSESSOR SHALL CALCULATE AN ESTIMATE OF THE
15 AGGREGATE VALUE OF EXEMPT BUSINESS PERSONAL PROPERTY FOR THE
16 COUNTY AND EACH LOCAL GOVERNMENTAL ENTITY LOCATED WITHIN THE
17 COUNTY THAT IS EQUAL TO THE APPLICABLE BASELINE EXEMPTION TOTAL
18 ADJUSTED BY THE GROWTH FACTOR FOR EACH PROPERTY TAX YEAR
19 COMMENCING ON AND AFTER JANUARY 1, 2022.

20 (II) FOR THE PROPERTY TAX YEARS COMMENCING ON JANUARY 1,
21 2022, AND EACH YEAR THEREAFTER, EACH TREASURER SHALL CALCULATE
22 THE TOTAL PROPERTY TAX REVENUES LOST BY ALL LOCAL GOVERNMENTAL
23 ENTITIES WITHIN THE TREASURER'S COUNTY BASED ON THE ESTIMATE OF
24 EXEMPT BUSINESS PERSONAL PROPERTY AMOUNT CALCULATED IN
25 ACCORDANCE WITH SUBSECTION (3)(c)(I) OF THIS SECTION.

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

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

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

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

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

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

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

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

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

18 **39-5-128. Certification of valuation for assessment.**
19 (1.5) ALONG WITH THE CERTIFICATION REQUIRED BY SUBSECTION (1) OF
20 THIS SECTION, THE ASSESSOR SHALL ALSO PROVIDE:

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

25 (b) THE AMOUNT CALCULATED UNDER SECTION 39-3-119.5
26 (3)(c)(I) FOR THE ESTIMATE OF THE AGGREGATE VALUE OF EXEMPT
27 BUSINESS PERSONAL PROPERTY FOR EACH PROPERTY TAX YEAR BEGINNING

1 WITH THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1, 2022,
2 WITHIN THE TERRITORIAL LIMITS OF EACH TOWN, CITY, SCHOOL DISTRICT,
3 OR SPECIAL DISTRICT.

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

6 **39-26-102. Definitions.** As used in this article 26, unless the
7 context otherwise requires:

8 (15) (a) (I) "Tangible personal property" means corporeal personal
9 property. THE TERM EMBRACES ALL GOODS, WARES, MERCHANDISE,
10 PRODUCTS AND COMMODITIES, AND ALL TANGIBLE OR CORPOREAL THINGS
11 AND SUBSTANCES THAT ARE DEALT IN AND CAPABLE OF BEING POSSESSED
12 AND EXCHANGED, EXCEPT AS SET FORTH IN THIS SUBSECTION (15). The
13 term shall not be construed to include newspapers, as legally defined by
14 section 24-70-102, ~~C.R.S.~~, preprinted newspaper supplements that
15 become attached to or inserted in and distributed with such newspapers,
16 or direct mail advertising materials that are distributed in Colorado by any
17 person engaged solely and exclusively in the business of providing
18 cooperative direct mail advertising; except that, commencing March 1,
19 2010, for purposes of the state sales or use tax, "tangible personal
20 property" shall include direct mail advertising materials that are
21 distributed in Colorado by any person engaged solely and exclusively in
22 the business of providing cooperative direct mail advertising.

23 (b.5) (I) "TANGIBLE PERSONAL PROPERTY" INCLUDES DIGITAL
24 GOODS. THE METHOD OF DELIVERY DOES NOT IMPACT THE TAXABILITY OF
25 A SALE OF TANGIBLE PERSONAL PROPERTY. EXAMPLES OF METHODS USED
26 TO DELIVER TANGIBLE PERSONAL PROPERTY UNDER CURRENT
27 TECHNOLOGY INCLUDE BUT ARE NOT LIMITED TO COMPACT DISC,

1 ELECTRONIC DOWNLOAD, AND INTERNET STREAMING.

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

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

8 **39-26-104. Property and services taxed - definitions - repeal.**

9 (1) There is levied and there shall be collected and paid a tax in the
10 amount stated in section 39-26-106 as follows:

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

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

17 **39-26-105. Vendor liable for tax - definitions - repeal.**

18 (1) (d) (IV) BEGINNING JANUARY 1, 2022, A RETAILER IS NOT PERMITTED
19 TO RETAIN ANY MONEY TO COVER THE RETAILER'S EXPENSES IN
20 COLLECTING AND REMITTING TAX IN ACCORDANCE WITH THIS SECTION FOR
21 ANY FILING PERIOD THAT THE RETAILER'S TOTAL TAXABLE SALES WERE
22 GREATER THAN ONE MILLION DOLLARS.

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

25 **39-29-102. Definitions.** As used in this ~~article~~ ARTICLE 29, unless
26 the context otherwise requires:

27 (3) "Gross income" means:

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

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

20 **39-29-106. Tax on the severance of coal.** (2) (b) On and after
21 July 1, 1999, BUT BEFORE JANUARY 1, 2026, no tax provided for in
22 subsection (1) of this section ~~shall be~~ IS imposed on the first:

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

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

27 (III) ONE HUNDRED EIGHTY THOUSAND TONS OF COAL PRODUCED

1 IN EACH QUARTER OF THE 2023 TAXABLE YEAR;

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

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

6 (3) FOR TAXABLE YEARS COMMENCING PRIOR TO JANUARY 1,
7 2026, there ~~shall be~~ IS allowed, as a credit against the tax imposed by
8 subsection (1) of this section, an amount equal to ~~fifty percent~~ THE
9 PERCENTAGE SET FORTH IN SUBSECTION (3.5) OF THIS SECTION of such tax
10 for coal produced from underground mines.

11 (3.5) THE PERCENTAGE FOR THE CREDITS ALLOWED UNDER
12 SUBSECTIONS (3) AND (4) OF THIS SECTION IS EQUAL TO:

13 (a) FIFTY PERCENT FOR THE 2021 TAXABLE YEAR;

14 (b) FORTY PERCENT FOR THE 2022 TAXABLE YEAR;

15 (c) THIRTY PERCENT FOR THE 2023 TAXABLE YEAR;

16 (d) TWENTY PERCENT FOR THE 2024 TAXABLE YEAR; AND

17 (e) TEN PERCENT FOR THE 2025 TAXABLE YEAR.

18 (4) FOR TAXABLE YEARS COMMENCING PRIOR TO JANUARY 1,
19 2026, there ~~shall be~~ IS allowed, as an additional credit against the tax
20 imposed by subsection (1) of this section, an amount equal to ~~fifty percent~~
21 THE PERCENTAGE SET FORTH IN SUBSECTION (3.5) OF THIS SECTION of such
22 tax for the production of lignitic coal, as such coal is classified by the
23 American society for testing and materials (ASTM) in their D 388
24 standard for the classification of coals by rank.

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

27 **39-29-108. Allocation of severance tax revenues - definitions**

1 - **repeal.** (2) (b) EXCEPT AS SET FORTH IN SUBSECTION (2)(d) OF THIS
2 SECTION, of the total gross receipts realized from the severance taxes
3 imposed on minerals and mineral fuels under the provisions of this article
4 after June 30, 2017, fifty percent shall be credited to the state severance
5 tax trust fund created by section 39-29-109, and fifty percent shall be
6 credited to the local government severance tax fund created by section
7 39-29-110.

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

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

15 **8-83-504. Just transition cash fund.** (1) There is hereby created
16 in the state treasury the just transition cash fund. The fund consists of
17 money credited to the fund IN ACCORDANCE WITH SECTION 39-29-108
18 (2)(d) and any other money that the general assembly may appropriate or
19 transfer to the fund. The state treasurer shall credit all interest and income
20 derived from the deposit and investment of money in the fund to the fund.
21 Subject to annual appropriation by the general assembly, the office may
22 expend money from the fund for purposes specified in this part 5,
23 including paying for the office's direct and indirect costs in administering
24 this part 5.

25 **SECTION 15. Appropriation.** (1) For the 2021-22 state fiscal
26 year, \$274,142 is appropriated to the department of revenue. This
27 appropriation is from the general fund. To implement this act, the

1 department may use this appropriation as follows:

2 (a) \$87,250 for use by the taxation business group for personal
3 services related to taxation services, which amount is based on an
4 assumption that the group will require an additional 1.3 FTE;

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

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

8 and

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

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

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

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

27 **SECTION 16. Severability.** If any section of this House Bill

1 21-1312, or the application thereof to any person or circumstance is held
2 invalid, such invalidity does not affect other provisions, applications, or
3 sections of this House Bill 21-1312 that can be given effect without the
4 invalid provision, application, or section, and to this end the provisions,
5 applications, and sections of this House Bill 21-1312 are declared to be
6 severable.

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

9 **SECTION 18. Safety clause.** The general assembly hereby finds,
10 determines, and declares that this act is necessary for the immediate
11 preservation of the public peace, health, or safety.