

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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.

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; AND PHASING-OUT TAX CREDITS AND
110 EXEMPTIONS FOR THE SEVERANCE TAX ON COAL.

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
5 regional home office was designed to create an incentive for insurance

1 companies to maintain a substantial workforce presence in the state, but
2 it has become clear that this incentive has failed to achieve the intended
3 result;

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

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

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

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

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

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

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

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

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

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

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

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

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

19 **10-3-209. Tax on premiums collected - exemptions - penalties.**
20 (1) (b) (II) For purposes of this ~~paragraph (b)~~ SUBSECTION (1)(b), EXCEPT
21 AS OTHERWISE PROVIDED IN SUBSECTION (1)(b)(II.5), any company is
22 deemed to maintain a home office or regional home office in this state if
23 such company either:

24 (II.5) FOR TAXES THAT ARE DUE AND PAYABLE FOR THE CALENDAR
25 YEAR 2021 AND EACH CALENDAR YEAR THEREAFTER, TO BE DEEMED TO
26 MAINTAIN A HOME OFFICE OR REGIONAL HOME OFFICE IN THIS STATE, A
27 COMPANY MUST MEET ONE OF THE CRITERIA SET FORTH IN SUBSECTION

1 (1)(b)(II) OF THIS SECTION AND ALSO HAVE AT LEAST TWO AND ONE-HALF
2 PERCENT OF THE COMPANY'S TOTAL DOMESTIC WORKFORCE IN THE STATE.
3 FOR PURPOSES OF THIS CALCULATION, A WORKFORCE EXCLUDES AGENTS
4 AND THEIR STAFF.

5 (d) (IV) Except to the extent provided in subsection (2) of this
6 section, the tax imposed by this section shall not apply to premiums
7 collected or contracted for after December 31, 1968, on policies or
8 contracts issued in connection with a pension, profit sharing, or annuity
9 plan established by an employer for employees if contributions by such
10 employer thereunder are deductible by such employer in determining such
11 employer's net income as defined in section 39-22-304, ~~€R.S.~~, and shall
12 not apply to premiums collected or contracted for after December 31,
13 1968, on policies or contracts purchased for an employee by an employer
14 if such employer is exempt under section 39-22-112 ~~€R.S.~~, from the tax
15 imposed by article 22 of title 39, ~~€R.S.~~, or is a state, a political
16 subdivision of a state, or an agency or instrumentality of a state or
17 political subdivision of a state. ~~Except to the extent provided in~~
18 ~~subsection (2) of this section,~~ The tax imposed by this section shall not
19 apply to annuity considerations collected or contracted for after December
20 31, 1976, EXCEPT TO THE EXTENT PROVIDED IN SUBSECTION (2) OF THIS
21 SECTION AND EXCEPT FOR, TAXES THAT ARE DUE AND PAYABLE FOR THE
22 CALENDAR YEAR 2021 AND EACH CALENDAR YEAR THEREAFTER, THIS
23 EXEMPTION ONLY APPLIES TO ANNUITY CONSIDERATIONS THAT ARE
24 PURCHASED IN CONNECTION WITH A QUALIFIED RETIREMENT PLAN, A ROTH
25 401(k) UNDER SECTION 402A OF THE INTERNAL REVENUE CODE, OR AN
26 INDIVIDUAL RETIREMENT ACCOUNT UNDER SECTION 408(a) OF THE
27 INTERNAL REVENUE CODE.

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

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

10 **39-1-102. Definitions.** As used in articles 1 to 13 of this title 39,
11 unless the context otherwise requires:

12 (3.7) "FEE SIMPLE ESTATE" MEANS THE LARGEST POSSIBLE ESTATE
13 ALLOWED BY LAW, AN ESTATE THAT HAS POTENTIALLY INFINITE
14 DURATION.

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

17 **39-1-103. Actual value determined - when.** (5) (a) All real and
18 personal property shall be appraised and the actual value thereof for
19 property tax purposes determined by the assessor of the county wherein
20 such property is located. The actual value of such property, other than
21 agricultural lands exclusive of building improvements thereon and other
22 than residential real property and other than producing mines and lands
23 or leaseholds producing oil or gas, shall be that value determined by
24 appropriate consideration of the cost approach, the market approach, and
25 the income approach to appraisal. The assessor shall consider and
26 document all elements of such approaches that are applicable prior to a
27 determination of actual value. THE ACTUAL VALUE REFLECTS THE VALUE

1 OF THE FEE SIMPLE ESTATE. Despite any orders of the state board of
2 equalization, no assessor shall arbitrarily increase the valuations for
3 assessment of all parcels represented within the abstract of a county or
4 within a class or subclass of parcels on that abstract by a common
5 multiple in response to the order of said board. If an assessor is required,
6 pursuant to the order of said board, to increase or decrease valuations for
7 assessment, such changes shall be made only upon individual valuations
8 for assessment of each and every parcel, using each of the approaches to
9 appraisal specified in this ~~paragraph (a)~~ SUBSECTION (5)(a), if applicable.
10 The actual value of agricultural lands, exclusive of building
11 improvements thereon, shall be determined by consideration of the
12 earning or productive capacity of such lands during a reasonable period
13 of time, capitalized at a rate of thirteen percent. Land that is valued as
14 agricultural and that becomes subject to a perpetual conservation
15 easement shall continue to be valued as agricultural notwithstanding its
16 dedication for conservation purposes; except that, if any portion of such
17 land is actually used for nonagricultural commercial or nonagricultural
18 residential purposes, that portion shall be valued according to such use.
19 Nothing in this subsection (5) shall be construed to require or permit the
20 reclassification of agricultural land or improvements, including residential
21 property, due solely to subjecting the land to a perpetual conservation
22 easement. The actual value of residential real- property shall be
23 determined solely by consideration of the market approach to appraisal.
24 A gross rent multiplier may be considered as a unit of comparison within
25 the market approach to appraisal. The valuation for assessment of
26 producing mines and of lands or leaseholds producing oil or gas shall be
27 determined pursuant to articles 6 and 7 of this ~~title~~ TITLE 39.

1 **SECTION 5.** In Colorado Revised Statutes, 39-1-104, **amend**
2 (12.3)(a)(I) as follows:

3 **39-1-104. Valuation for assessment - definitions.**

4 (12.3) (a) (I) The actual value of personal property ~~shall be~~ IS determined
5 by appropriate consideration of such of the three approaches specified in
6 section 39-1-103 (5)(a) as are applicable to the appraisal of such property
7 AND IS BASED ON THE PROPERTY'S VALUE IN USE. Subject to review and
8 approval pursuant to section 39-2-109 (1)(e), the administrator shall
9 prepare and publish appraisal procedures and instructions for the annual
10 appraisal of such property that ~~will~~ include A DEFINITION OF "VALUE IN
11 USE" AND a factor or factors to adjust the actual value for the current year
12 of assessment to the level of value applicable to real property.

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

16 **39-3-119.5. Personal property - exemption - reimbursement to**
17 **local governments - legislative declaration - definitions.** (2) (a) The
18 exemption created in subsection (1) of this section shall be up to and
19 including the following amounts:

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

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

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

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

1 AND

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

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

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

24 (II) FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY 1,
25 2021, EACH TREASURER SHALL CALCULATE THE TOTAL PROPERTY TAX
26 REVENUES LOST BY ALL LOCAL GOVERNMENTAL ENTITIES WITHIN THE
27 TREASURER'S COUNTY BASED ON THE EXEMPT BUSINESS PERSONAL

1 PROPERTY AMOUNT CALCULATED IN ACCORDANCE WITH SUBSECTION
2 (3)(a)(I) OF THIS SECTION.

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

10 (c) (I) FOR THE PROPERTY TAX YEAR COMMENCING ON JANUARY
11 1, 2022, EACH TREASURER SHALL CALCULATE AN ESTIMATE OF THE
12 AGGREGATE VALUE OF EXEMPT BUSINESS PERSONAL PROPERTY WITHIN
13 THE COUNTY THAT IS EQUAL TO THE AMOUNT OF THE EXEMPT BUSINESS
14 PERSONAL PROPERTY AMOUNT CALCULATED IN ACCORDANCE WITH
15 SUBSECTION (3)(a)(I) OF THIS SECTION, ADJUSTED BY THE PERCENTAGE
16 INCREASE OR DECREASE IN TOTAL VALUATION OF BUSINESS PERSONAL
17 PROPERTY PUBLISHED BY THE ADMINISTRATOR DURING THE PROPERTY TAX
18 YEAR IN ACCORDANCE WITH SUBSECTION (3)(b) OF THIS SECTION. FOR
19 EACH PROPERTY TAX YEAR THEREAFTER, THE COUNTY TREASURER SHALL
20 CALCULATE THE ESTIMATE OF AGGREGATE VALUE OF EXEMPT BUSINESS
21 PERSONAL PROPERTY WITHIN THE COUNTY BY MAKING THE ADJUSTMENT
22 TO THE ESTIMATE OF AGGREGATE VALUE OF EXEMPT BUSINESS PERSONAL
23 PROPERTY WITHIN THE COUNTY FROM THE PRIOR PROPERTY TAX YEAR.

24 (II) FOR THE PROPERTY TAX YEARS COMMENCING ON JANUARY 1,
25 2022, AND EACH YEAR THEREAFTER, EACH TREASURER SHALL CALCULATE
26 THE TOTAL PROPERTY TAX REVENUES LOST BY ALL LOCAL GOVERNMENTAL
27 ENTITIES WITHIN THE TREASURER'S COUNTY BASED ON THE ESTIMATE OF

1 EXEMPT BUSINESS PERSONAL PROPERTY AMOUNT CALCULATED IN
2 ACCORDANCE WITH SUBSECTION (3)(c)(I) OF THIS SECTION. FOR PURPOSES
3 OF THIS CALCULATION, THE TREASURER SHALL ASSUME THE LOCATION OF
4 THE PROPERTY BASED ON THE LOCATION OF THE PROPERTY ON THE
5 SCHEDULES IDENTIFIED IN SUBSECTION (3)(a) OF THIS SECTION.

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

18 (e) NO LATER THAN APRIL 15, 2022, AND APRIL 15 OF EACH YEAR
19 THEREAFTER, THE STATE TREASURER SHALL ISSUE A WARRANT TO BE PAID
20 FROM THE GENERAL FUND TO EACH TREASURER THAT IS EQUAL TO THE
21 AMOUNT SPECIFIED BY THE ADMINISTRATOR FOR THE COUNTY UNDER
22 SUBSECTION (3)(d) OF THIS SECTION. EACH TREASURER SHALL DISTRIBUTE
23 THE TOTAL AMOUNT RECEIVED FROM THE STATE TREASURER TO THE
24 LOCAL GOVERNMENTAL ENTITIES WITHIN THE TREASURER'S COUNTY AS IF
25 THE REVENUES HAD BEEN REGULARLY PAID AS PROPERTY TAX. WHEN
26 DISTRIBUTING THE MONEY, THE TREASURER SHALL PROVIDE EACH LOCAL
27 GOVERNMENTAL ENTITY WITH A STATEMENT OF THE AMOUNT

1 DISTRIBUTED TO THE LOCAL GOVERNMENTAL ENTITY THAT REPRESENTS
2 THE REIMBURSEMENT RECEIVED UNDER THIS SUBSECTION (3)(e).

3 **SECTION 7.** In Colorado Revised Statutes, 39-26-102, **amend**
4 (15)(a)(I); and **add** (15)(b.5) as follows:

5 **39-26-102. Definitions.** As used in this article 26, unless the
6 context otherwise requires:

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

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

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

5 **SECTION 8.** In Colorado Revised Statutes, 39-26-104, **amend**
6 (1)(a) as follows:

7 **39-26-104. Property and services taxed - definitions - repeal.**

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

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

14 **SECTION 9.** In Colorado Revised Statutes, 39-26-105, **add**
15 (1)(d)(IV) as follows:

16 **39-26-105. Vendor liable for tax - definitions - repeal.**

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

22 **SECTION 10.** In Colorado Revised Statutes, 39-29-102, **amend**
23 the introductory portion and (3)(a) as follows:

24 **39-29-102. Definitions.** As used in this ~~article~~ ARTICLE 29, unless
25 the context otherwise requires:

- 26 (3) "Gross income" means:
27 (a) For oil and gas, the net amount realized by the taxpayer for

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

17 **SECTION 11.** In Colorado Revised Statutes, 39-29-106, **amend**
18 (2)(b), (3), and (4); and **add** (3.5) as follows:

19 **39-29-106. Tax on the severance of coal.** (2) (b) On and after
20 July 1, 1999, BUT BEFORE JANUARY 1, 2026, no tax provided for in
21 subsection (1) of this section ~~shall be~~ IS imposed on the first:

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

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

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

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

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

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

10 (3.5) THE PERCENTAGE FOR THE CREDITS ALLOWED UNDER
11 SUBSECTIONS (3) AND (4) OF THIS SECTION IS EQUAL TO:

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

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

24 **SECTION 12.** In Colorado Revised Statutes, 39-29-108, **amend**
25 (2)(b); and **add** (2)(d) as follows:

26 **39-29-108. Allocation of severance tax revenues - definitions**
27 **- repeal.** (2) (b) EXCEPT AS SET FORTH IN SUBSECTION (2)(d) OF THIS

1 SECTION, of the total gross receipts realized from the severance taxes
2 imposed on minerals and mineral fuels under the provisions of this article
3 after June 30, 2017, fifty percent shall be credited to the state severance
4 tax trust fund created by section 39-29-109, and fifty percent shall be
5 credited to the local government severance tax fund created by section
6 39-29-110.

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

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

14 **8-83-504. Just transition cash fund.** (1) There is hereby created
15 in the state treasury the just transition cash fund. The fund consists of
16 money credited to the fund IN ACCORDANCE WITH SECTION 39-29-108
17 (2)(d) and any other money that the general assembly may appropriate or
18 transfer to the fund. The state treasurer shall credit all interest and income
19 derived from the deposit and investment of money in the fund to the fund.
20 Subject to annual appropriation by the general assembly, the office may
21 expend money from the fund for purposes specified in this part 5,
22 including paying for the office's direct and indirect costs in administering
23 this part 5.

24 **SECTION 14. Severability.** If any section of this House Bill
25 21-1312, or the application thereof to any person or circumstance is held
26 invalid, such invalidity does not affect other provisions, applications, or
27 sections of this House Bill 21-1312 that can be given effect without the

1 invalid provision, application, or section, and to this end the provisions,
2 applications, and sections of this House Bill 21-1312 are declared to be
3 severable.

4 **SECTION 15. Effective date.** This act takes effect July 1, 2021;
5 except that section 10 of this act takes effect on January 1, 2022.

6 **SECTION 16. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, or safety.