

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 22-1049.01 Megan McCall x4215

SENATE BILL 22-233

SENATE SPONSORSHIP

Hinrichsen and Rodriguez,

HOUSE SPONSORSHIP

Exum and Daugherty,

Senate Committees

Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING AN ADDITIONAL MECHANISM TO REFUND EXCESS STATE**
102 **REVENUES FOR STATE FISCAL YEAR 2021-22 ONLY THAT**
103 **PROVIDES A REFUND IN AN IDENTICAL AMOUNT TO EACH**
104 **QUALIFIED RESIDENT INDIVIDUAL.**

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>.)

If the state exceeds its constitutional spending limit, then it is required by the Taxpayer's Bill of Rights (TABOR) to refund the excess state revenues (TABOR refunds). There are currently 3 TABOR refund

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.

mechanisms: Reimbursement to counties for the senior homestead exemption, a temporary income tax rate reduction, and a sales tax refund.

The bill establishes a temporary fourth TABOR refund mechanism for excess state revenues from all sources for state fiscal year 2021-22. Under this mechanism, if the amount of excess state revenues exceeds the projected total amount of TABOR refunds issued as reimbursement to counties for the senior homestead exemption and, if applicable, through the temporary income tax rate reduction, then on or before September 30, 2022, the state treasurer is required to issue refund checks to every qualified individual in an identical amount. The amount of the refund is \$400 for every qualified individual who files a single income tax return or who receives a property tax, rent, or heat credit rebate and \$800 for each pair of qualified individuals who file a joint income tax return or who receive a property tax, rent, or heat credit rebate; except that the executive director of the department of revenue has the authority to adjust these amounts to avoid refunding more excess state revenues than are required to be refunded based on the amount or anticipated amount of excess state revenues set forth in the state controller's certification of state revenues.

"Qualified individual" is defined for purposes of the bill as a natural person who is a Colorado resident for the entire 2021 income tax year and files a state income tax return for the 2021 income tax year or receives a property tax, rent, or heat credit rebate.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-21-113, **add** (31)
3 as follows:

4 **39-21-113. Reports and returns - rule - repeal.**

5 (31) (a) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, IN ORDER
6 FOR CALL CENTER SUPPORT TO BE PROVIDED AS IT RELATES TO THE
7 REFUND OF EXCESS STATE REVENUES FROM ALL SOURCES SET FORTH IN
8 SECTION 39-22-2004, THE EXECUTIVE DIRECTOR MAY SUPPLY THE
9 DEPARTMENT OF PERSONNEL OR A THIRD-PARTY VENDOR CONTRACTED TO
10 PROVIDE THE CALL CENTER SERVICES WITH INFORMATION NECESSARY FOR
11 SUPPORT TO BE FACILITATED AND PROVIDED TO TAXPAYERS. ANY
12 INFORMATION PROVIDED TO THE DEPARTMENT OF PERSONNEL OR A

1 THIRD-PARTY VENDOR CONTRACTED TO PROVIDE THE CALL CENTER
2 SERVICES PURSUANT TO THIS SUBSECTION (31)(a) REMAINS CONFIDENTIAL,
3 AND ALL PERSONS WITHIN THE DEPARTMENT OF PERSONNEL OR
4 EMPLOYEES OF A THIRD-PARTY VENDOR ARE SUBJECT TO THE LIMITATIONS
5 SET FORTH IN SUBSECTION (4) OF THIS SECTION AND THE PENALTIES
6 CONTAINED IN SUBSECTION (6) OF THIS SECTION.

7 (b) THIS SUBSECTION (31) IS REPEALED, EFFECTIVE JULY 1, 2027.

8 **SECTION 2.** In Colorado Revised Statutes, **add** 39-22-2004 as
9 follows:

10 **39-22-2004. Temporary refund of excess state revenues from**
11 **all sources - definitions - repeal.** (1) AS USED IN THIS SECTION, UNLESS
12 THE CONTEXT OTHERWISE REQUIRES:

13 (a) "ADDITIONAL EXCESS STATE REVENUES" MEANS THE TOTAL
14 AMOUNT OF THE STATE REVENUES IN EXCESS OF THE LIMITATION ON STATE
15 FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7)(a) OF ARTICLE X OF
16 THE STATE CONSTITUTION THAT THE STATE IS REQUIRED TO REFUND
17 UNDER SECTION 20 (7)(d) OF ARTICLE X OF THE STATE CONSTITUTION,
18 INCLUDING ANY AMOUNT SPECIFIED IN SECTION 24-77-103.8, AND THAT
19 EXCEEDS THE AMOUNTS PROJECTED TO BE REFUNDED AS REQUIRED BY
20 SECTION 39-3-209, SECTION 39-22-627, OR BOTH OF SAID SECTIONS FOR
21 THE STATE FISCAL YEAR COMMENCING ON JULY 1, 2021.

22 (b) "QUALIFIED INDIVIDUAL" MEANS A NATURAL PERSON WHO IS
23 A RESIDENT OF THE STATE FOR THE ENTIRE INCOME TAX YEAR
24 COMMENCING ON JANUARY 1, 2021, AND WHO, BY MIDNIGHT ON OR
25 BEFORE JUNE 30, 2022, FILES A STATE INCOME TAX RETURN FOR THAT
26 INCOME TAX YEAR OR IS AWARDED A GRANT PURSUANT TO ARTICLE 31 OF
27 THIS TITLE 39.

1 (c) "TEMPORARY REFUND AMOUNT" MEANS:

2 (I) FOUR HUNDRED DOLLARS FOR A QUALIFIED INDIVIDUAL FILING
3 A SINGLE STATE INCOME TAX RETURN OR WHO RECEIVES AN AWARD OF A
4 GRANT PURSUANT TO ARTICLE 31 OF THIS TITLE 39 AND EIGHT HUNDRED
5 DOLLARS FOR TWO QUALIFIED INDIVIDUALS FILING A JOINT STATE INCOME
6 TAX RETURN OR WHO RECEIVE AN AWARD OF A GRANT PURSUANT TO
7 ARTICLE 31 OF THIS TITLE 39; OR

8 (II) THE ADJUSTED AMOUNT SET BY THE EXECUTIVE DIRECTOR
9 PURSUANT TO SUBSECTION (2)(d) OF THIS SECTION.

10 (2) (a) IF, FOR THE STATE FISCAL YEAR COMMENCING ON JULY 1,
11 2021, THERE ARE ADDITIONAL EXCESS STATE REVENUES, THEN THERE
12 SHALL BE ALLOWED A REFUND TO EACH QUALIFIED INDIVIDUAL OF THE
13 TEMPORARY REFUND AMOUNT.

14 (b) IF THE REQUIREMENTS SET FORTH IN SUBSECTION (2)(a) OF THIS
15 SECTION ARE MET, THEN NO LATER THAN SEPTEMBER 30, 2022, THE STATE
16 TREASURER SHALL ISSUE TO EACH QUALIFIED INDIVIDUAL AND TO EACH
17 JOINT FILING OR GRANT RECEIVING PAIR OF QUALIFIED INDIVIDUALS A
18 REIMBURSEMENT WARRANT FOR THE APPLICABLE TEMPORARY REFUND
19 AMOUNT PAID FROM THE GENERAL FUND.

20 (c) ON OR BEFORE AUGUST 1, 2022, THE EXECUTIVE DIRECTOR
21 SHALL CERTIFY AND SUBMIT TO THE STATE TREASURER THE TEMPORARY
22 REFUND AMOUNT AND A LIST OF QUALIFIED INDIVIDUALS TO RECEIVE THE
23 REFUND OF EXCESS STATE REVENUES FROM ALL SOURCES UNDER THIS
24 SECTION, WHICH LIST MUST INCLUDE THE MAILING ADDRESSES PROVIDED
25 ON THE QUALIFIED INDIVIDUALS' INCOME TAX RETURNS OR ON THE FORMS
26 PRESCRIBED BY THE DEPARTMENT FOR GRANTS AUTHORIZED UNDER
27 ARTICLE 31 OF THIS TITLE 39.

1 (d) ON OR AFTER JULY 1, 2022, BUT BEFORE AUGUST 1, 2022, THE
2 EXECUTIVE DIRECTOR, IN CONSULTATION WITH LEGISLATIVE COUNCIL
3 STAFF AND THE STATE CONTROLLER, MAY DETERMINE THAT THE
4 TEMPORARY REFUND AMOUNT SET FORTH IN SUBSECTION (1)(c)(I) OF THIS
5 SECTION NEEDS TO BE ADJUSTED BASED ON THE STATE REVENUES IN
6 EXCESS OF THE LIMITATION OF STATE FISCAL YEAR SPENDING IMPOSED BY
7 SECTION 20 (7)(a) OF ARTICLE X OF THE STATE CONSTITUTION THAT THE
8 STATE IS REQUIRED TO REFUND UNDER SECTION 20 (7)(d) OF ARTICLE X OF
9 THE STATE CONSTITUTION, INCLUDING ANY AMOUNT SPECIFIED IN SECTION
10 24-77-103.8, THAT ARE INCLUDED IN, OR ANTICIPATED TO BE INCLUDED IN,
11 THE STATE CONTROLLER'S CERTIFICATION OF STATE REVENUES PREPARED
12 IN ACCORDANCE WITH SECTION 24-77-103.6 (1)(b) FOR STATE FISCAL
13 YEAR 2021-22; EXCEPT THAT ANY ADJUSTMENT SHALL NOT CAUSE REFUND
14 AMOUNTS UNDER THIS SECTION TO EXCEED THE AMOUNTS SET FORTH IN
15 SUBSECTION (1)(c)(I) OF THIS SECTION. IF THE EXECUTIVE DIRECTOR
16 DETERMINES THAT AN ADJUSTMENT TO THE TEMPORARY REFUND AMOUNT
17 SET FORTH IN SUBSECTION (1)(c)(I) OF THIS SECTION SHOULD BE MADE,
18 THE EXECUTIVE DIRECTOR SHALL MAKE THE ADJUSTMENT IN A MANNER
19 THAT MAINTAINS AN EQUAL TEMPORARY REFUND FOR EVERY QUALIFIED
20 INDIVIDUAL THAT IS DOUBLED FOR EACH PAIR OF QUALIFIED INDIVIDUALS
21 FILING A JOINT RETURN OR FILING JOINTLY FOR A GRANT PURSUANT TO
22 ARTICLE 31 OF THIS TITLE 39.

23 (3) THE REFUND OF EXCESS STATE REVENUES FROM ALL SOURCES
24 ALLOWED UNDER THIS SECTION IS A REASONABLE METHOD OF REFUNDING
25 A PORTION OF THE EXCESS STATE REVENUES REQUIRED TO BE REFUNDED
26 IN ACCORDANCE WITH SECTION 20 (7)(d) OF ARTICLE X OF THE STATE
27 CONSTITUTION.

1 (4) (a) THE REFUND OF EXCESS STATE REVENUE FROM ALL
2 SOURCES ALLOWED TO ANY QUALIFIED INDIVIDUAL UNDER THIS SECTION
3 SHALL NOT BE REPORTED BY THE DEPARTMENT OF REVENUE AS A
4 PAYMENT OF A REFUND, CREDIT, OR OFFSET OF STATE INCOME TAXES TO
5 THE QUALIFIED INDIVIDUAL IN ANY INFORMATION RETURN REQUIRED TO
6 BE FILED PURSUANT TO FEDERAL LAW.

7 (b) THE REFUND OF EXCESS STATE REVENUE FROM ALL SOURCES
8 SET FORTH IN THIS SECTION IS SUBJECT TO THE PROVISIONS UNDER SECTION
9 39-21-108 FOR A QUALIFIED INDIVIDUAL TO THE EXTENT OF ANY UNPAID
10 BALANCE OR UNPAID DEBT AS SET FORTH IN SECTION 39-21-108 (3).

11 (c) A TAX PREPARER IS NOT LIABLE IF THE PREPARER IS UNABLE TO
12 FILE A TAXPAYER'S 2021 STATE INCOME TAX RETURN BY JUNE 30, 2022,
13 WHEN A TAXPAYER TIMELY FILED, AND WAS GRANTED, A TAX EXTENSION
14 AS LONG AS THE TAX PREPARER FILES THE TAX RETURN BY OCTOBER 17,
15 2022.

16 (5) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2027.

17 **SECTION 3.** In Colorado Revised Statutes, 39-22-605, **amend**
18 (2)(c), (7)(a), (8)(a), and (8)(b)(II) as follows:

19 **39-22-605. Failure by individual to pay estimated income tax.**

20 (2) As used in this section, unless the context otherwise requires:

21 (c) "Tax" or "tax liability" means the tax imposed under this
22 article minus the credits against tax provided by this article other than the
23 credits against tax for withholding pursuant to sections 39-22-601 (4),
24 39-22-604, and 39-22-604.5 and THE credits against tax for the sales tax
25 refund pursuant to section 39-22-2003 AND THE REFUND OF EXCESS STATE
26 REVENUES FROM ALL SOURCES PURSUANT TO SECTION 39-22-2004.

27 (7) (a) No addition to tax shall be imposed under subsection (3)

1 of this section for any taxable year if the tax shown on the return for such
2 taxable year or, if no return is filed, the tax, reduced by the credits
3 allowable under sections 39-22-601 (4), 39-22-604, 39-22-604.5, and
4 39-22-2003, AND 39-22-2004 is less than one thousand dollars.

5 (8) (a) For purposes of applying this section, the amount of the
6 credits allowed under sections 39-22-601 (4), 39-22-604, 39-22-604.5,
7 and 39-22-2003, AND 39-22-2004 for the taxable year shall be deemed a
8 payment of estimated tax and an equal part of such amount shall be
9 deemed paid on each due date for such taxable year, unless the taxpayer
10 establishes the dates on which all amounts were actually withheld, in
11 which case the amounts so withheld shall be deemed payments of
12 estimated tax on the dates on which such amounts were actually withheld.

13 (b) The taxpayer may apply subsection (8)(a) of this section
14 separately with respect to the following:

15 (II) All other amounts withheld for which credits are allowed
16 under sections 39-22-601 (4), 39-22-604, 39-22-604.5, and 39-22-2003,
17 AND 39-22-2004.

18 **SECTION 4. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, or safety.