

First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 25-0749.02 Nicole Myers x4326

SENATE BILL 25-136

SENATE SPONSORSHIP

Pelton B.,

HOUSE SPONSORSHIP

Gonzalez R.,

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING AN EXPANSION OF THE STATE INCOME TAX SUBTRACTION**
102 **FOR RETIREMENT BENEFITS TO ALLOW AN INDIVIDUAL TO**
103 **SUBTRACT ALL SUCH BENEFITS FROM FEDERAL TAXABLE**
104 **INCOME FOR THE PURPOSE OF CALCULATING STATE TAXABLE**
105 **INCOME REGARDLESS OF THE INDIVIDUAL'S INCOME OR AGE.**

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>.)

Current law allows any individual to deduct amounts, up to certain caps based on the individual's age, received as pensions or annuities from

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.

any source, to the extent included in federal adjusted gross income.

Notwithstanding the caps on the deduction for amounts received as pensions or annuities from other sources, current law allows any individual who is 65 years of age or older at the close of a taxable year to subtract the total amount of social security benefits that the individual received from the individual's federal taxable income, to the extent those benefits were included in federal taxable income, when determining the individual's state taxable income. Beginning January 1, 2025, this subtraction is also allowed to any individual who is 55 years of age or older and has an adjusted gross income for the applicable tax year that is less than or equal to \$75,000 if filing individually or \$95,000 if filing jointly.

For income tax years commencing on or after January 1, 2026, the bill removes all caps on the deduction for amounts received as pensions and annuities and allows any individual, regardless of age or income, to subtract the total amount that the individual received as pension or annuity income from the individual's federal taxable income, to the extent that income was included in federal taxable income, when determining the individual's state taxable income.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-22-104, **amend**
3 (4)(f)(I), (4)(f)(III)(A), and (4)(f)(III)(B); **repeal** (4)(f)(III)(C) and
4 (4)(f)(III)(D); and **add** (4)(f)(IV), (4)(f)(V), and (4)(f)(VI) as follows:

5 **39-22-104. Income tax imposed on individuals, estates, and**
6 **trusts - single rate - report - tax preference performance statement**
7 **- legislative declaration - definitions - repeal.** (4) There shall be
8 subtracted from federal taxable income:

9 (f) (I) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION (4)(f), for
10 income tax years commencing on or after January 1, 1989, amounts
11 received as pensions or annuities from any source by any individual who
12 is fifty-five years of age or older at the close of the taxable year, to the
13 extent included in federal adjusted gross income;

14 (III) (A) FOR INCOME TAX YEARS COMMENCING PRIOR TO

1 JANUARY 1, 2026, amounts subtracted under this subsection (4)(f) are
2 capped at twenty thousand dollars per tax year for any individual who is
3 fifty-five years of age or older but less than sixty-five years of age at the
4 close of the taxable year. For income tax years commencing on or after
5 January 1, 2025, the cap set forth in this subsection (4)(f)(III)(A) is
6 calculated by first considering the total amount of social security benefits
7 a taxpayer received that were included in federal taxable income at the
8 close of the taxable year. If the total amount of such social security
9 benefits exceeds the cap set forth in this subsection (4)(f)(III)(A), and the
10 taxpayer's adjusted gross income for the applicable tax year is less than
11 or equal to seventy-five thousand dollars if filing individually or
12 ninety-five thousand dollars if filing jointly, then the cap is increased to
13 an amount equal to the total amount of such social security benefits.

14 (B) FOR INCOME TAX YEARS COMMENCING PRIOR TO JANUARY 1,
15 2026, amounts subtracted under this subsection (4)(f) are capped at
16 twenty-four thousand dollars per tax year for any individual who is
17 sixty-five years of age or older at the close of the taxable year. For
18 income tax years commencing on or after January 1, 2022, the cap set
19 forth in this subsection (4)(f)(III)(B) is calculated by first considering the
20 total amount of social security benefits a taxpayer received that were
21 included in federal taxable income at the close of the taxable year. If the
22 total amount of such social security benefits exceeds the cap set forth in
23 this subsection (4)(f)(III)(B), then the cap is increased to an amount equal
24 to the total amount of such social security benefits.

25 ~~(C) For the purpose of determining the subtraction allowed by this~~
26 ~~subsection (4)(f), in the case of a joint return, social security benefits~~
27 ~~included in federal taxable income shall be apportioned in a ratio of the~~

1 ~~gross social security benefits of each taxpayer to the total gross social~~
2 ~~security benefits of both taxpayers.~~

3 (D) ~~As used in this subsection (4)(f), "pensions and annuities"~~
4 ~~means retirement benefits that are periodic payments attributable to~~
5 ~~personal services performed by an individual prior to his or her retirement~~
6 ~~from employment and that arise from an employer-employee relationship,~~
7 ~~from service in the uniformed services of the United States, or from~~
8 ~~contributions to a retirement plan that are deductible for federal income~~
9 ~~tax purposes. "Pensions and annuities" includes distributions from~~
10 ~~individual retirement arrangements and self-employed retirement~~
11 ~~accounts to the extent that such distributions are not deemed to be~~
12 ~~premature distributions for federal income tax purposes, amounts~~
13 ~~received from fully matured privately purchased annuities, social security~~
14 ~~benefits, and amounts paid from any such sources by reason of permanent~~
15 ~~disability or death of the person entitled to receive the benefits.~~

16 (IV) (A) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
17 JANUARY 1, 2026, ALL AMOUNTS RECEIVED AS PENSIONS OR ANNUITIES
18 FROM ANY SOURCE BY ANY INDIVIDUAL WHO IS FIFTY-FIVE YEARS OF AGE
19 OR OLDER AT THE CLOSE OF THE TAXABLE YEAR, TO THE EXTENT
20 INCLUDED IN FEDERAL ADJUSTED GROSS INCOME;

21 (B) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH
22 REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE
23 A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY
24 LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY FINDS AND
25 DECLARES THAT THE GENERAL PURPOSE OF THE TAX EXPENDITURES
26 CREATED IN THIS SUBSECTION (4)(f)(IV) IS TO PROVIDE TAX RELIEF FOR
27 CERTAIN INDIVIDUALS AND THAT THE SPECIFIC PURPOSE OF THE TAX

1 EXPENDITURES IS TO PROVIDE SUCH TAX RELIEF TO INDIVIDUALS WHO
2 RECEIVE PENSION OR ANNUITY BENEFITS. THE GENERAL ASSEMBLY AND
3 THE STATE AUDITOR SHALL MEASURE THE EFFECTIVENESS OF THE
4 EXEMPTION ALLOWED BY THIS SECTION BASED ON THE TOTAL AMOUNT OF
5 PENSION AND ANNUITY BENEFITS THAT INDIVIDUALS SUBTRACT FROM
6 THEIR FEDERAL TAXABLE INCOME WHEN CALCULATING THEIR STATE
7 TAXABLE INCOME. THE DEPARTMENT OF REVENUE, IN CONSULTATION
8 WITH THE STATE AUDITOR, SHALL COLLECT THE INFORMATION NECESSARY
9 FOR THE STATE AUDITOR TO MEASURE THE EFFECTIVENESS OF THE INCOME
10 TAX SUBTRACTION ALLOWED BY THIS SUBSECTION (4)(f)(IV) BASED ON
11 THE TOTAL AMOUNT OF PENSION OR ANNUITY BENEFITS THAT INDIVIDUALS
12 SUBTRACT FROM THEIR FEDERAL TAXABLE INCOME WHEN CALCULATING
13 THEIR STATE TAXABLE INCOME.

14 (V) FOR THE PURPOSE OF DETERMINING THE SUBTRACTION
15 ALLOWED BY THIS SUBSECTION (4)(f), IN THE CASE OF A JOINT RETURN,
16 SOCIAL SECURITY BENEFITS INCLUDED IN FEDERAL TAXABLE INCOME
17 SHALL BE APPORTIONED IN A RATIO OF THE GROSS SOCIAL SECURITY
18 BENEFITS OF EACH TAXPAYER TO THE TOTAL GROSS SOCIAL SECURITY
19 BENEFITS OF BOTH TAXPAYERS.

20 (VI) AS USED IN THIS SUBSECTION (4)(f), "PENSIONS AND
21 ANNUITIES" MEANS RETIREMENT BENEFITS THAT ARE PERIODIC PAYMENTS
22 ATTRIBUTABLE TO PERSONAL SERVICES PERFORMED BY AN INDIVIDUAL
23 PRIOR TO THE INDIVIDUAL'S RETIREMENT FROM EMPLOYMENT AND THAT
24 ARISE FROM AN EMPLOYER-EMPLOYEE RELATIONSHIP, FROM SERVICE IN
25 THE UNIFORMED SERVICES OF THE UNITED STATES, OR FROM
26 CONTRIBUTIONS TO A RETIREMENT PLAN THAT ARE DEDUCTIBLE FOR
27 FEDERAL INCOME TAX PURPOSES. "PENSIONS AND ANNUITIES" INCLUDES

1 DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ARRANGEMENTS AND
2 SELF-EMPLOYED RETIREMENT ACCOUNTS TO THE EXTENT THAT SUCH
3 DISTRIBUTIONS ARE NOT DEEMED TO BE PREMATURE DISTRIBUTIONS FOR
4 FEDERAL INCOME TAX PURPOSES, AMOUNTS RECEIVED FROM FULLY
5 MATURED PRIVATELY PURCHASED ANNUITIES, SOCIAL SECURITY BENEFITS,
6 AND AMOUNTS PAID FROM ANY SUCH SOURCES BY REASON OF PERMANENT
7 DISABILITY OR DEATH OF THE PERSON ENTITLED TO RECEIVE THE BENEFITS.

8 **SECTION 2. Act subject to petition - effective date.** This act
9 takes effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly; except
11 that, if a referendum petition is filed pursuant to section 1 (3) of article V
12 of the state constitution against this act or an item, section, or part of this
13 act within such period, then the act, item, section, or part will not take
14 effect unless approved by the people at the general election to be held in
15 November 2026 and, in such case, will take effect on the date of the
16 official declaration of the vote thereon by the governor.