

First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

DRAFT
9/9/24

BILL 3

LLS NO. 25-0217.01 Pierce Lively x2059

INTERIM COMMITTEE BILL

Legislative Oversight Committee Concerning Tax Policy

BILL TOPIC: Business Personal Property Tax Income Tax Credit

A BILL FOR AN ACT

101 **CONCERNING A STATE INCOME TAX CREDIT EQUAL TO AN AMOUNT OF**
102 **BUSINESS PERSONAL PROPERTY TAX PAID.**

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/>.)

Legislative Oversight Committee Concerning Tax Policy. The Colorado constitution imposes a property tax on personal property (business personal property tax). If a taxpayer has personal property with an actual value that is no more than an amount established in statute, that personal property is exempt from the business personal property tax pursuant to the business personal property tax exemption. If a taxpayer

*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words indicate deletions from existing law.*

has personal property with an actual value that is great enough that the taxpayer does not qualify for the business personal property tax exemption, the taxpayer qualifies for an income tax credit (business personal property tax credit). The business personal property tax credit is an income tax credit equal to the amount of property tax on personal property paid by the taxpayer on up to \$18,000 of the total actual value of the taxpayer's personal property. **Section 1** of the bill limits the business personal property tax credit to income tax years commencing before January 1, 2026.

Section 2 creates an alternative business personal property refundable tax credit (alternative tax credit) for income tax years commencing on January 1, 2026, but before January 1, 2032. The alternative tax credit may only be claimed by a taxpayer who has personal property with an actual value that is great enough not to qualify for the business personal property tax exemption but that is also no more than \$150,000 as biennially adjusted for inflation. The alternative tax credit may be claimed by a qualifying taxpayer in an amount equal to the amount of the business personal property tax exemption multiplied by the applicable assessment rate for personal property and the average mill levy across the state.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-22-537.5, **amend**
3 (3)(a); and **add** (5) as follows:

4 **39-22-537.5. Credit for personal property taxes paid -**
5 **legislative declaration - definitions - repeal.** (3) (a) For income tax
6 years commencing on or after January 1, 2019, BUT BEFORE JANUARY 1,
7 2026, a taxpayer is allowed a credit against the tax imposed by this article
8 22 equal to the property tax paid in Colorado during the income tax year
9 on up to eighteen thousand dollars of the total actual value of the
10 taxpayer's personal property.

11 (5) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2036.

12 **SECTION 2.** In Colorado Revised Statutes, **add** 39-22-537.7 as
13 follows:

14 **39-22-537.7. Credit for business personal property taxes paid**

1 - tax preference performance statement - application - policies and
2 procedures - legislative declaration - definitions - repeal. (1) Tax
3 preference performance statement. (a) IN ACCORDANCE WITH SECTION
4 39-21-304 (1), WHICH REQUIRES EACH BILL THAT CREATES A NEW TAX
5 EXPENDITURE TO INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT
6 AS PART OF A STATUTORY LEGISLATIVE DECLARATION, THE GENERAL
7 ASSEMBLY FINDS AND DECLARES THAT THE PURPOSE OF THE TAX CREDIT
8 PROVIDED FOR IN THIS SECTION IS TO REDUCE STRUCTURAL INEFFICIENCIES
9 IN THE TAX STRUCTURE BY ALLOWING TAXPAYERS TO RECEIVE A CREDIT
10 AGAINST INCOME TAX FOR A CERTAIN AMOUNT OF THE BUSINESS
11 PERSONAL PROPERTY TAX PAID BY THE TAXPAYERS. SPECIFICALLY, THIS
12 TAX EXPENDITURE IS INTENDED TO MINIMIZE THE NEGATIVE IMPACT OF
13 THE BUSINESS PERSONAL PROPERTY TAX ON BUSINESSES.

14 (b) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL
15 MEASURE THE EFFECTIVENESS OF THE TAX CREDIT IN ACHIEVING THE
16 PURPOSES SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION BASED ON THE
17 NUMBER AND VALUE OF THE CREDITS CLAIMED.

18 (2) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT
19 OTHERWISE REQUIRES:

20 (a) "BUSINESS PERSONAL PROPERTY TAX EXEMPTION AMOUNT"
21 MEANS THE ACTUAL VALUE OF PERSONAL PROPERTY THAT IS ELIGIBLE FOR
22 THE BUSINESS PERSONAL PROPERTY TAX EXEMPTION AS ESTABLISHED IN
23 SECTION 39-3-119.5 (2).

24 (b) "CREDIT" MEANS THE CREDIT AGAINST INCOME TAX CREATED
25 IN THIS SECTION.

26 (c) "PERSONAL PROPERTY ACTUAL VALUE CAP" MEANS ONE
27 HUNDRED FIFTY THOUSAND DOLLARS FOR THE INCOME TAX YEAR

1 COMMENCING ON JANUARY 1, 2026, AND AN AMOUNT DETERMINED
2 PURSUANT TO SUBSECTION (3)(a)(II) OF THIS SECTION FOR INCOME TAX
3 YEARS COMMENCING ON OR AFTER JANUARY 1, 2027, BUT BEFORE
4 JANUARY 1, 2032.

5 (d) "PROPERTY TAX" MEANS THE AD VALOREM TAX IMPOSED
6 PURSUANT TO SECTION 3 OF ARTICLE X OF THE STATE CONSTITUTION BUT
7 DOES NOT INCLUDE PUBLIC UTILITIES ASSESSED PURSUANT TO SECTION
8 39-4-102 OR THE GRADUATED ANNUAL SPECIFIC OWNERSHIP TAX IMPOSED
9 PURSUANT TO SECTION 6 OF ARTICLE X OF THE STATE CONSTITUTION.

10 (e) (I) "QUALIFIED TAXPAYER" MEANS A TAXPAYER THAT OWES
11 PROPERTY TAX ON PERSONAL PROPERTY AND OWNS PERSONAL PROPERTY
12 SUBJECT TO PROPERTY TAX WITH AN ACTUAL VALUE THAT IS BOTH:

13 (A) GREATER THAN THE BUSINESS PERSONAL PROPERTY TAX
14 EXEMPTION AMOUNT; AND

15 (B) LESS THAN THE PERSONAL PROPERTY ACTUAL VALUE CAP.

16 (II) "QUALIFIED TAXPAYER" INCLUDES AN ORGANIZATION EXEMPT
17 FROM FEDERAL TAXATION PURSUANT TO SECTION 501 (c) OF THE
18 INTERNAL REVENUE CODE.

19 (f) "STATEWIDE MILL LEVY VALUE" MEANS AN AMOUNT EQUAL TO
20 THE AVERAGE MILL LEVY IMPOSED ON PERSONAL PROPERTY ACROSS THE
21 STATE.

22 (3) **Tax credit allowed.** (a) (I) FOR INCOME TAX YEARS
23 COMMENCING ON OR AFTER JANUARY 1, 2026, BUT BEFORE JANUARY 1,
24 2032, A CREDIT WITH RESPECT TO INCOME TAXES IMPOSED PURSUANT TO
25 THIS ARTICLE 22 IS ALLOWED TO A QUALIFIED TAXPAYER IN AN AMOUNT
26 EQUAL TO THE BUSINESS PERSONAL PROPERTY TAX EXEMPTION AMOUNT
27 MULTIPLIED BY THE ASSESSMENT RATE FOR PERSONAL PROPERTY, AS

1 ESTABLISHED IN SECTION 39-1-104, MULTIPLIED BY THE STATEWIDE MILL
2 LEVY VALUE.

3 (II) BEGINNING WITH THE INCOME TAX YEAR COMMENCING ON
4 JANUARY 1, 2027, THE DEPARTMENT OF REVENUE SHALL BIENNIALY
5 ADJUST THE PERSONAL PROPERTY ACTUAL VALUE CAP FOR INFLATION. ON
6 OR BEFORE NOVEMBER 1, 2026, NOVEMBER 1, 2028, AND NOVEMBER 1,
7 2030, THE DEPARTMENT SHALL CALCULATE THE AMOUNT OF THE
8 EXEMPTION FOR THE NEXT TWO-YEAR CYCLE USING INFLATION FOR THE
9 PRIOR TWO CALENDAR YEARS AS OF THE DATE OF THE CALCULATION. THE
10 DEPARTMENT SHALL ROUND THE ADJUSTED AMOUNT UPWARD OR
11 DOWNWARD TO THE NEAREST ONE HUNDRED DOLLARS. INFLATION IS
12 MEASURED BY THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES
13 DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS CONSUMER PRICE
14 INDEX, OR A SUCCESSOR INDEX, FOR DENVER-AURORA-LAKEWOOD FOR
15 ALL ITEMS PAID BY URBAN CONSUMERS.

16 (III) FOR PURPOSES OF THIS SUBSECTION (3)(a), THE ASSESSMENT
17 RATE FOR PERSONAL PROPERTY AND THE STATEWIDE MILL LEVY VALUE
18 ARE CALCULATED FOR THE PROPERTY TAX YEAR DURING WHICH THE
19 INCOME TAX YEAR FOR WHICH THE QUALIFIED TAXPAYER IS CLAIMING THE
20 CREDIT BEGINS.

21 (b) A TAXPAYER MAY NOT CLAIM A TAX CREDIT UNDER THIS
22 SECTION FOR THE PAYMENT OF DELINQUENT PROPERTY TAXES THAT WERE
23 OWED FOR A PRIOR PROPERTY TAX YEAR.

24 (4) **Application.** IN ORDER TO CLAIM A TAX CREDIT PURSUANT TO
25 THIS SECTION, A QUALIFIED TAXPAYER MUST SUBMIT TO THE DEPARTMENT
26 OF REVENUE A COPY OF A PROPERTY TAX STATEMENT DESCRIBED IN
27 SECTION 39-10-103 FOR ALL OF THE QUALIFIED TAXPAYER'S PERSONAL

1 PROPERTY FOR THE PROPERTY TAX YEAR FOR WHICH THE QUALIFIED
2 TAXPAYER PAYS PROPERTY TAX DURING THE INCOME TAX YEAR FOR
3 WHICH THE QUALIFIED TAXPAYER IS CLAIMING THE CREDIT.

4 (5) **Policies and procedures.** THE DEPARTMENT OF REVENUE MAY
5 CREATE AND MODIFY POLICIES AND PROCEDURES AS NECESSARY TO
6 FURTHER IMPLEMENT THIS SECTION AND SHALL SOLICIT ADVICE FROM THE
7 DIVISION OF PROPERTY TAXATION WITHIN THE DEPARTMENT OF LOCAL
8 AFFAIRS IN CREATING AND MODIFYING THE POLICIES AND PROCEDURES.

9 (6) **Refundability.** IF THE AMOUNT OF THE CREDIT ALLOWED
10 PURSUANT TO THIS SECTION EXCEEDS THE INCOME TAX DUE ON THE
11 INCOME OF THE QUALIFIED TAXPAYER FOR THE TAXABLE YEAR, THE
12 AMOUNT OF THE CREDIT NOT USED AS AN OFFSET AGAINST INCOME TAXES
13 IN THE CURRENT INCOME TAX YEAR MUST NOT BE CARRIED FORWARD AND
14 MUST BE REFUNDED TO THE QUALIFIED TAXPAYER.

15 (7) **Repeal.** THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31,
16 2036.

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