

First Regular Session  
Seventy-fifth General Assembly  
STATE OF COLORADO

DRAFT  
9/6/24

**BILL 6**

LLS NO. 25-0220.01 Jason Gelender x4330

**INTERIM COMMITTEE BILL**

**Legislative Oversight Committee Concerning Tax Policy**

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**BILL TOPIC:** Income Tax Expenditures for Service Members

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**A BILL FOR AN ACT**

101 **CONCERNING INCOME TAX EXPENDITURES THAT BENEFIT INDIVIDUALS**  
102 **ENGAGED IN MILITARY SERVICE.**

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**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 bill changes how income tax expenditures that benefit individuals engaged in military service are provided as follows:

- Beginning with income tax years commencing on or after January 1, 2027, **section 2** of the bill eliminates the state income tax subtraction for an amount equal to any

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

compensation received for active duty service in the armed forces of the United States by an individual who has reacquired residency in the state to the extent that the compensation is included in federal taxable income; and

- For income tax years commencing on or after January 1, 2027, but before January 1, 2032, **section 3** allows a refundable income tax credit (credit) as a form of tuition assistance to an actively serving member of the Colorado National Guard who is eligible for tuition assistance (eligible member) under an existing statutorily-authorized program (program) administered by the department of veterans and military affairs (department).

To claim the credit, an eligible member must obtain a tax credit certificate issued by the department for each academic semester or quarter for which tuition assistance is awarded in the form of the credit.

The criteria for receiving a tax credit certificate are generally the same as the criteria for receiving other tuition assistance under the program; except that, to be eligible for a tax credit certificate, an eligible member must apply for all federal government tuition assistance that is not required to be repaid and that is generally made available to eligible members and not to the general population and must use all federal government tuition assistance received. The total amount of tuition assistance that an eligible member to whom the department has issued a tax credit certificate may obtain under the program, including the credit, is subject to existing program limits. In addition, the department may issue no more than \$1 million in tax credit certificates for any income tax year.

**Section 1** makes conforming amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, 23-7.4-302, **amend**  
3 (2)(a.5), (2)(b) introductory portion, (2)(b)(II), (2)(b)(IV), (2)(c), (2)(d),  
4 (5), (6), and (7) introductory portion as follows:

5 **23-7.4-302. Tuition for members of the National Guard -**  
6 **definitions.** (2) (a.5) A member is eligible for tuition assistance pursuant  
7 to this section AND SECTION 39-22-571 to the extent that the sum of the  
8 member's tuition assistance from all sources, including the federal  
9 government, does not exceed one hundred percent of the cost of tuition.

1 (b) In order to qualify for the tuition assistance authorized by this  
2 section AND SECTION 39-22-571, a member:

3 (II) Must not be drawing tuition from any other tuition assistance  
4 program funded by a private employer that, when combined with the  
5 TUITION assistance in this section AND SECTION 39-22-571, would exceed  
6 one hundred percent of the tuition costs;

7 (IV) Must serve in the Colorado National Guard during the period  
8 of time that the member is receiving tuition ~~and fee~~ assistance.

9 (c) In providing the tuition assistance to members pursuant to  
10 subsection (2)(a) of this section AND SECTION 39-22-571, the department  
11 of military and veterans affairs is encouraged to consider providing  
12 assistance on a priority basis to newly-enlisted members in their first term  
13 of service and who enlist in those military specialties that are  
14 experiencing shortages as determined by the department.

15 (d) For purposes of this section:

16 (I) "Member" means an enlisted member or officer of the National  
17 Guard.

18 (II) "TUITION ASSISTANCE" INCLUDES BOTH TUITION ASSISTANCE  
19 AWARDED PURSUANT TO THIS SECTION AND AN INCOME TAX CREDIT  
20 ALLOWED PURSUANT TO SECTION 39-22-571.

21 (5) For each individual member of the Colorado National Guard  
22 who is a continuing student and who is receiving tuition assistance as  
23 provided in this section OR IN SECTION 39-22-571, the department of  
24 military and veterans affairs shall obtain certification from the designated  
25 institution of higher education prior to the payment to the institution OR  
26 THE ISSUANCE OF A TAX CREDIT CERTIFICATE PURSUANT TO SECTION  
27 39-22-571 (5) attesting to the member's current satisfactory academic

1 standing at the designated institution of higher education, as determined  
2 by military regulations promulgated pursuant to subsection (7) of this  
3 section, for each semester or quarter for which tuition assistance is  
4 requested. Tuition assistance shall not be granted without such  
5 certification.

6 (6) Any member who leaves the Colorado National Guard in  
7 violation of the member's agreement under subsection (2) of this section  
8 during an academic term for which the member is receiving tuition  
9 assistance is required to repay to the department of military and veterans  
10 affairs the amount of tuition assistance granted PURSUANT TO THIS  
11 SECTION for that academic term and any and all collection fees incurred  
12 by the department of military and veterans affairs. The repayment of SUCH  
13 tuition assistance ~~shall~~ MUST be credited to the Colorado National Guard  
14 tuition fund created in subsection (9) of this section.

15 (7) The department of military and veterans affairs shall  
16 promulgate military regulations for the administration of tuition  
17 assistance as provided in this section AND SECTION 39-22-571, including,  
18 but not limited to, the following:

19 **SECTION 2.** In Colorado Revised Statutes, 39-22-104, **amend**  
20 (4)(u) as follows:

21 **39-22-104. Income tax imposed on individuals, estates, and**  
22 **trusts - single rate - report - tax preference performance statement**  
23 **- legislative declaration - definitions - repeal.** (4) There shall be  
24 subtracted from federal taxable income:

25 (u) (I) For income tax years commencing on or after January 1,  
26 2016, BUT BEFORE JANUARY 1, 2027, an amount equal to any  
27 compensation received for active duty service in the armed forces of the

1 United States by an individual who has reacquired residency in the state  
2 pursuant to section 39-22-110.5, to the extent that the compensation is  
3 included in federal taxable income;

4 (II) THIS SUBSECTION (4)(u) IS REPEALED, EFFECTIVE DECEMBER  
5 31, 2031.

6 **SECTION 3.** In Colorado Revised Statutes, **add** 39-22-571 as  
7 follows:

8 **39-22-571. Income tax credit for tuition assistance for eligible**  
9 **members of the Colorado National Guard - tax preference**  
10 **performance statement - report - definitions - repeal. (1) Tax**  
11 **preference performance statement.** IN ACCORDANCE WITH SECTION  
12 39-21-304 (1), WHICH REQUIRES EACH BILL THAT CREATES A NEW TAX  
13 EXPENDITURE TO INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT  
14 AS PART OF A STATUTORY LEGISLATIVE DECLARATION, THE GENERAL  
15 ASSEMBLY FINDS AND DECLARES THAT:

16 (a) THE GENERAL LEGISLATIVE PURPOSE OF THE TAX CREDIT  
17 ALLOWED BY THIS SECTION IS TO PROVIDE TAX RELIEF FOR CERTAIN  
18 BUSINESSES OR INDIVIDUALS.

19 (b) THE SPECIFIC LEGISLATIVE PURPOSE OF THE TAX CREDIT  
20 ALLOWED BY THIS SECTION IS TO PROVIDE TAX RELIEF FOR ELIGIBLE  
21 MEMBERS OF THE COLORADO NATIONAL GUARD WHO ARE PURSUING  
22 HIGHER EDUCATION BY PROVIDING ADDITIONAL TUITION ASSISTANCE.

23 (c) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL  
24 MEASURE THE EFFECTIVENESS OF THE TAX CREDIT IN ACHIEVING THE  
25 PURPOSES SPECIFIED IN SUBSECTIONS (1)(a) AND (1)(b) OF THIS SECTION  
26 BASED ON THE INFORMATION REQUIRED TO BE MAINTAINED AND REPORTED  
27 BY THE ADMINISTRATOR PURSUANT TO SUBSECTION (8) OF THIS SECTION.

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

3           (a) "ADMINISTRATOR" MEANS THE DEPARTMENT OF MILITARY AND  
4 VETERANS AFFAIRS.

5           (b) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

6           (c) "ELIGIBLE MEMBER" MEANS AN ENLISTED MEMBER OR OFFICER  
7 OF THE COLORADO NATIONAL GUARD WHO IS ELIGIBLE FOR TUITION  
8 ASSISTANCE PURSUANT TO SECTION 23-7.4-302.

9           (d) "QUALIFIED INDIVIDUAL" MEANS AN ELIGIBLE MEMBER TO  
10 WHOM THE ADMINISTRATOR ISSUES A TAX CREDIT CERTIFICATE.

11           (e) "RULES" MEANS THE MILITARY REGULATIONS FOR THE  
12 ADMINISTRATION OF TUITION ASSISTANCE PROMULGATED BY THE  
13 ADMINISTRATOR PURSUANT TO SECTION 23-7.4-302 (7).

14           (f) "TAX CREDIT" MEANS THE INCOME TAX CREDIT ALLOWED  
15 PURSUANT TO THIS SECTION.

16           (g) "TAX CREDIT CERTIFICATE" MEANS A CERTIFICATE ISSUED BY  
17 THE ADMINISTRATOR TO A QUALIFIED INDIVIDUAL PURSUANT TO  
18 SUBSECTION (5) OF THIS SECTION.

19           (h) "TUITION ASSISTANCE" INCLUDES BOTH TUITION ASSISTANCE  
20 AWARDED PURSUANT TO SECTION 23-7.4-302 AND A TAX CREDIT ALLOWED  
21 PURSUANT TO THIS SECTION.

22           (3) **Tax credit allowed.** (a) FOR INCOME TAX YEARS  
23 COMMENCING ON OR AFTER JANUARY 1, 2027, BUT BEFORE JANUARY 1,  
24 2032, A QUALIFIED INDIVIDUAL IS ALLOWED A CREDIT AGAINST THE  
25 INCOME TAXES IMPOSED BY THIS ARTICLE 22 IN THE AMOUNT SET FORTH  
26 IN THE TAX CREDIT CERTIFICATE ISSUED TO THE QUALIFIED INDIVIDUAL.

27           (b) TO CLAIM A TAX CREDIT, A QUALIFIED INDIVIDUAL MUST FILE

1 A TAX CREDIT CERTIFICATE WITH THE QUALIFIED INDIVIDUAL'S INCOME  
2 TAX RETURN.

3 (4) **Application submission and review.** (a) AN ELIGIBLE  
4 MEMBER WHO INTENDS TO CLAIM A TAX CREDIT MUST SUBMIT AN  
5 APPLICATION TO THE ADMINISTRATOR FOR TUITION ASSISTANCE IN  
6 ACCORDANCE WITH THE RULES.

7 (b) WHEN REVIEWING AN APPLICATION FOR TUITION ASSISTANCE  
8 FILED BY AN ELIGIBLE MEMBER, THE ADMINISTRATOR, TAKING INTO  
9 ACCOUNT THE FACTORS SET FORTH IN SECTION 23-7.4-302 (7)(a), THE  
10 REQUIREMENT SET FORTH IN SUBSECTION (4)(c) OF THIS SECTION, AND ANY  
11 ADDITIONAL FACTORS IN THE RULES, SHALL DETERMINE HOW MUCH TOTAL  
12 TUITION ASSISTANCE, IF ANY, TO AWARD TO THE ELIGIBLE MEMBER AND  
13 THE AMOUNTS OF SUCH TUITION ASSISTANCE TO BE AWARDED PURSUANT  
14 TO SECTION 23-7.4-302 AND AS A TAX CREDIT.

15 (c) TO BE ELIGIBLE FOR A TAX CREDIT CERTIFICATE, AN ELIGIBLE  
16 MEMBER MUST APPLY FOR ALL FEDERAL GOVERNMENT TUITION  
17 ASSISTANCE THAT IS NOT REQUIRED TO BE REPAID AND THAT IS  
18 GENERALLY MADE AVAILABLE TO MEMBERS OF THE COLORADO NATIONAL  
19 GUARD AND NOT TO THE GENERAL POPULATION AND MUST USE ALL  
20 FEDERAL GOVERNMENT TUITION ASSISTANCE RECEIVED.

21 (5) **Tax credit certificates.** (a) SUBJECT TO THE LIMITATIONS SET  
22 FORTH IN SUBSECTION (5)(b) OF THIS SECTION, IF THE ADMINISTRATOR  
23 DETERMINES THAT AN ELIGIBLE MEMBER SHOULD RECEIVE TUITION  
24 ASSISTANCE IN THE FORM OF A TAX CREDIT, THE ADMINISTRATOR SHALL  
25 ISSUE TO THE ELIGIBLE MEMBER A TAX CREDIT CERTIFICATE FOR EACH  
26 ACADEMIC SEMESTER OR QUARTER FOR WHICH SUCH TUITION ASSISTANCE  
27 IS BEING AWARDED THAT INDICATES THE INCOME TAX YEAR FOR WHICH

1 SUCH TUITION ASSISTANCE IS BEING AWARDED AND THE AMOUNT OF SUCH  
2 TUITION ASSISTANCE TO BE AWARDED.

3 (b) THE ISSUANCE OF TAX CREDIT CERTIFICATES PURSUANT TO  
4 SUBSECTION (5)(a) OF THIS SECTION IS SUBJECT TO THE FOLLOWING  
5 LIMITATIONS:

6 (I) THE MAXIMUM AGGREGATE AMOUNT OF TAX CREDIT  
7 CERTIFICATES THAT THE ADMINISTRATOR MAY ISSUE TO ALL QUALIFIED  
8 INDIVIDUALS FOR ANY INCOME TAX YEAR IS ONE MILLION DOLLARS;

9 (II) A TAX CREDIT CERTIFICATE MUST BE ISSUED FOR THE INCOME  
10 TAX YEAR DURING WHICH THE SEMESTER OR QUARTER FOR WHICH THE  
11 TUITION ASSISTANCE IN THE FORM OF A TAX CREDIT IS AWARDED BEGINS;  
12 AND

13 (III) THE MAXIMUM AMOUNT OF A TAX CREDIT CERTIFICATE  
14 ISSUED TO A QUALIFIED INDIVIDUAL IS THE MAXIMUM AMOUNT OF TUITION  
15 ASSISTANCE THAT THE ADMINISTRATOR MAY AWARD TO AN ELIGIBLE  
16 MEMBER FOR AN ACADEMIC SEMESTER OR QUARTER, AS APPLICABLE,  
17 PURSUANT TO SECTION 23-7.4-302 AND IS SPECIFICALLY SUBJECT TO THE  
18 LIMITATION SET FORTH IN SECTION 23-7.4-302 (2)(a.5).

19 (6) **Refundability.** IF THE AMOUNT OF A TAX CREDIT EXCEEDS THE  
20 AMOUNT OF INCOME TAXES OTHERWISE DUE ON THE INCOME OF A  
21 QUALIFIED INDIVIDUAL IN THE INCOME TAX YEAR FOR WHICH THE TAX  
22 CREDIT IS CLAIMED, THE AMOUNT OF THE TAX CREDIT NOT USED AS AN  
23 OFFSET AGAINST INCOME TAXES IN THE INCOME TAX YEAR IS REFUNDED TO  
24 THE QUALIFIED INDIVIDUAL.

25 (7) **Revocation of tax credit certificate and recapture of tax**  
26 **credit.** IF, IN ACCORDANCE WITH SECTION 23-7.4-302 AND THE RULES, A  
27 QUALIFIED INDIVIDUAL TO WHOM THE ADMINISTRATOR HAS ISSUED A TAX

1 CREDIT CERTIFICATE SUBSEQUENTLY FAILS TO FULFILL ALL REQUIREMENTS  
2 FOR RECEIVING THE TUITION ASSISTANCE PROVIDED IN THE FORM OF A TAX  
3 CREDIT THAT IS SPECIFIED ON THE TAX CREDIT CERTIFICATE, THE  
4 ADMINISTRATOR SHALL REVOKE THE TAX CREDIT CERTIFICATE AND  
5 NOTIFY THE QUALIFIED INDIVIDUAL AND THE DEPARTMENT OF THE  
6 REVOCATION AND THE TAX CREDIT IS DISALLOWED. IF THE TAX CREDIT  
7 HAS ALREADY BEEN ALLOWED TO THE QUALIFIED INDIVIDUAL BEFORE THE  
8 DEPARTMENT RECEIVES NOTICE OF THE REVOCATION OF THE TAX CREDIT  
9 CERTIFICATE, THE QUALIFIED INDIVIDUAL SHALL ADD THE FULL AMOUNT  
10 OF THE TAX CREDIT THAT WAS ACTUALLY USED TO OFFSET THE QUALIFIED  
11 INDIVIDUAL'S INCOME OR REFUNDED TO THE QUALIFIED INDIVIDUAL TO  
12 THE QUALIFIED INDIVIDUAL'S INCOME TAX RETURN FOR THE NEXT INCOME  
13 TAX YEAR AS A RECAPTURED TAX CREDIT FOR THE INCOME TAX YEAR FOR  
14 WHICH THE TAX CREDIT CERTIFICATE IS REVOKED PURSUANT TO THIS  
15 SUBSECTION (7).

16 (8) **Reporting.** (a) NO LATER THAN DECEMBER 31, 2028, AND,  
17 NOTWITHSTANDING THE REQUIREMENT IN SECTION 24-1-136 (11)(a)(I), NO  
18 LATER THAN DECEMBER 31 OF EACH YEAR THEREAFTER THROUGH 2032,  
19 THE ADMINISTRATOR SHALL PROVIDE A WRITTEN REPORT TO THE GENERAL  
20 ASSEMBLY AND SHALL FURTHER MAKE THE REPORT AVAILABLE TO THE  
21 PUBLIC. IN CONNECTION WITH TAX CREDITS, THE REPORT MUST INCLUDE:

22 (I) THE NUMBER OF TAX CREDIT CERTIFICATES ISSUED;

23 (II) THE AGGREGATE AMOUNT OF TUITION ASSISTANCE PROVIDED  
24 THROUGH TAX CREDITS AND THE AVERAGE AMOUNT OF SUCH TUITION  
25 ASSISTANCE PROVIDED TO EACH QUALIFIED INDIVIDUAL TO WHOM THE  
26 ADMINISTRATOR HAS ISSUED A TAX CREDIT CERTIFICATE; AND

27 (III) THE AMOUNT OF ANY TAX CREDIT RECAPTURED DUE TO

1 REVOCATION OF A TAX CREDIT CERTIFICATE PURSUANT TO SUBSECTION (7)  
2 OF THIS SECTION.

3 (b) THE ADMINISTRATOR SHALL, IN A SUFFICIENTLY TIMELY  
4 MANNER TO ALLOW THE DEPARTMENT TO PROCESS RETURNS CLAIMING  
5 THE CREDIT, PROVIDE THE DEPARTMENT WITH AN ELECTRONIC REPORT OF  
6 EACH QUALIFIED INDIVIDUAL TO WHOM THE ADMINISTRATOR ISSUES ONE  
7 OR MORE TAX CREDIT CERTIFICATES FOR THE PRECEDING INCOME TAX  
8 YEAR THAT INCLUDES THE FOLLOWING INFORMATION:

9 (I) THE QUALIFIED INDIVIDUAL'S NAME;

10 (II) THE TOTAL AMOUNT OF THE TAX CREDIT AUTHORIZED TO BE  
11 CLAIMED BY THE QUALIFIED INDIVIDUAL AND, IF MULTIPLE TAX CREDIT  
12 CERTIFICATES WERE ISSUED TO A QUALIFIED INDIVIDUAL, THE AMOUNT OF  
13 THE TAX CREDIT AUTHORIZED TO BE CLAIMED BY THE QUALIFIED  
14 INDIVIDUAL THAT IS SPECIFIED ON EACH TAX CREDIT CERTIFICATE; AND

15 (III) THE QUALIFIED INDIVIDUAL'S SOCIAL SECURITY NUMBER OR,  
16 IF THE QUALIFIED INDIVIDUAL IS NOT A UNITED STATES CITIZEN, THE  
17 QUALIFIED INDIVIDUAL'S INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER.

18 (9) **Repeal.** THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31,  
19 2036.

20 **SECTION 4. Act subject to petition - effective date.** This act  
21 takes effect at 12:01 a.m. on the day following the expiration of the  
22 ninety-day period after final adjournment of the general assembly; except  
23 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
24 of the state constitution against this act or an item, section, or part of this  
25 act within such period, then the act, item, section, or part will not take  
26 effect unless approved by the people at the general election to be held in

- 1 November 2026 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.