

First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

DRAFT
12/9/24

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LLS NO. 25-0468.01 Nicole Myers x4326

HOUSE BILL

HOUSE SPONSORSHIP

Weinberg,

SENATE SPONSORSHIP

(None),

BILL TOPIC: Income Tax Subtraction for Soc Security Benefits

A BILL FOR AN ACT

101 CONCERNING AN EXPANSION OF THE STATE INCOME TAX SUBTRACTION
102 FOR SOCIAL SECURITY BENEFITS TO ALLOW AN INDIVIDUAL TO
103 SUBTRACT ALL SOCIAL SECURITY BENEFITS FROM FEDERAL
104 TAXABLE INCOME FOR THE PURPOSE OF CALCULATING STATE
105 TAXABLE INCOME REGARDLESS OF THE INDIVIDUAL'S INCOME
106 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 who is 65 years of age or older

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

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 allows any individual, regardless of age or income, to subtract the total amount of the individual's social security benefits 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.

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
15 JANUARY 1, 2026, amounts subtracted under this subsection (4)(f) are
16 capped at twenty thousand dollars per tax year for any individual who is
17 fifty-five years of age or older but less than sixty-five years of age at the

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

11 (B) FOR INCOME TAX YEARS COMMENCING PRIOR TO JANUARY 1,
12 2026, amounts subtracted under this subsection (4)(f) are capped at
13 twenty-four thousand dollars per tax year for any individual who is
14 sixty-five years of age or older at the close of the taxable year. For
15 income tax years commencing on or after January 1, 2022, the cap set
16 forth in this subsection (4)(f)(III)(B) is calculated by first considering the
17 total amount of social security benefits a taxpayer received that were
18 included in federal taxable income at the close of the taxable year. If the
19 total amount of such social security benefits exceeds the cap set forth in
20 this subsection (4)(f)(III)(B), then the cap is increased to an amount equal
21 to the total amount of such social security benefits.

22 (C) ~~For the purpose of determining the subtraction allowed by this~~
23 ~~subsection (4)(f), in the case of a joint return, social security benefits~~
24 ~~included in federal taxable income shall be apportioned in a ratio of the~~
25 ~~gross social security benefits of each taxpayer to the total gross social~~
26 ~~security benefits of both taxpayers. <{***This is added back as a new***~~
27 ~~***subsection (4)(f)(V).***>~~

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

15 (IV) (A) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
16 JANUARY 1, 2026, AMOUNTS SUBTRACTED UNDER THIS SUBSECTION (4)(f)
17 ARE CAPPED AT TWENTY THOUSAND DOLLARS PER TAX YEAR FOR ANY
18 INDIVIDUAL WHO IS FIFTY-FIVE YEARS OF AGE OR OLDER BUT LESS THAN
19 SIXTY-FIVE YEARS OF AGE AT THE CLOSE OF THE TAXABLE YEAR AND AT
20 TWENTY-FOUR THOUSAND DOLLARS PER TAX YEAR FOR ANY INDIVIDUAL
21 WHO IS SIXTY-FIVE YEARS OF AGE OR OLDER AT THE CLOSE OF THE
22 TAXABLE YEAR. THE APPLICABLE CAP SET FORTH IN THIS SUBSECTION
23 (4)(f)(IV)(A) IS CALCULATED BY FIRST CONSIDERING THE TOTAL AMOUNT
24 OF SOCIAL SECURITY BENEFITS AN INDIVIDUAL RECEIVED THAT WERE
25 INCLUDED IN FEDERAL TAXABLE INCOME AT THE CLOSE OF THE TAXABLE
26 YEAR. IF THE TOTAL AMOUNT OF SUCH SOCIAL SECURITY BENEFITS
27 EXCEEDS THE APPLICABLE CAP SET FORTH IN THIS SUBSECTION

1 (4)(f)(IV)(A), THEN THE APPLICABLE CAP IS INCREASED TO AN AMOUNT
2 EQUAL TO THE TOTAL AMOUNT OF SUCH SOCIAL SECURITY BENEFITS.

3 (B) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH
4 REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE
5 A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY
6 LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY FINDS AND
7 DECLARES THAT THE GENERAL PURPOSE OF THE TAX EXPENDITURES
8 CREATED IN THIS SUBSECTION (4)(f)(IV) IS TO PROVIDE TAX RELIEF FOR
9 CERTAIN INDIVIDUALS AND THAT THE SPECIFIC PURPOSE OF THE TAX
10 EXPENDITURES IS TO PROVIDE SUCH TAX RELIEF TO INDIVIDUALS WHO
11 RECEIVE SOCIAL SECURITY BENEFITS. THE GENERAL ASSEMBLY AND THE
12 STATE AUDITOR SHALL MEASURE THE EFFECTIVENESS OF THE EXEMPTION
13 ALLOWED BY THIS SECTION BASED ON THE TOTAL AMOUNT OF SOCIAL
14 SECURITY BENEFITS IN EXCESS OF THE CAPS SPECIFIED IN SUBSECTION
15 (4)(f)(IV)(A) OF THIS SECTION THAT INDIVIDUALS SUBTRACT FROM THEIR
16 FEDERAL TAXABLE INCOME WHEN CALCULATING THEIR STATE TAXABLE
17 INCOME. THE DEPARTMENT OF REVENUE, IN CONSULTATION WITH THE
18 STATE AUDITOR, SHALL COLLECT THE INFORMATION NECESSARY FOR THE
19 STATE AUDITOR TO MEASURE THE EFFECTIVENESS OF THE INCOME TAX
20 SUBTRACTION ALLOWED BY THIS SUBSECTION (4)(f)(IV) BASED ON THE
21 TOTAL AMOUNT OF SOCIAL SECURITY BENEFITS IN EXCESS OF THE CAPS
22 SPECIFIED IN SUBSECTION (4)(f)(IV)(A) OF THIS SECTION THAT
23 INDIVIDUALS WHO RECEIVE SOCIAL SECURITY BENEFITS SUBTRACT FROM
24 THEIR FEDERAL TAXABLE INCOME WHEN CALCULATING THEIR STATE
25 TAXABLE INCOME.

26 (V) FOR THE PURPOSE OF DETERMINING THE SUBTRACTION
27 ALLOWED BY THIS SUBSECTION (4)(f), IN THE CASE OF A JOINT RETURN,

1 SOCIAL SECURITY BENEFITS INCLUDED IN FEDERAL TAXABLE INCOME
2 SHALL BE APPORTIONED IN A RATIO OF THE GROSS SOCIAL SECURITY
3 BENEFITS OF EACH TAXPAYER TO THE TOTAL GROSS SOCIAL SECURITY
4 BENEFITS OF BOTH TAXPAYERS.

5 (VI) AS USED IN THIS SUBSECTION (4)(f), "PENSIONS AND
6 ANNUITIES" MEANS RETIREMENT BENEFITS THAT ARE PERIODIC PAYMENTS
7 ATTRIBUTABLE TO PERSONAL SERVICES PERFORMED BY AN INDIVIDUAL
8 PRIOR TO THE INDIVIDUAL'S RETIREMENT FROM EMPLOYMENT AND THAT
9 ARISE FROM AN EMPLOYER-EMPLOYEE RELATIONSHIP, FROM SERVICE IN
10 THE UNIFORMED SERVICES OF THE UNITED STATES, OR FROM
11 CONTRIBUTIONS TO A RETIREMENT PLAN THAT ARE DEDUCTIBLE FOR
12 FEDERAL INCOME TAX PURPOSES. "PENSIONS AND ANNUITIES" INCLUDES
13 DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ARRANGEMENTS AND
14 SELF-EMPLOYED RETIREMENT ACCOUNTS TO THE EXTENT THAT SUCH
15 DISTRIBUTIONS ARE NOT DEEMED TO BE PREMATURE DISTRIBUTIONS FOR
16 FEDERAL INCOME TAX PURPOSES, AMOUNTS RECEIVED FROM FULLY
17 MATURED PRIVATELY PURCHASED ANNUITIES, SOCIAL SECURITY BENEFITS,
18 AND AMOUNTS PAID FROM ANY SUCH SOURCES BY REASON OF PERMANENT
19 DISABILITY OR DEATH OF THE PERSON ENTITLED TO RECEIVE THE BENEFITS.

20 **SECTION 2. 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.