

First Extraordinary Session
Sixty-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 06B-2075.01 Jason Gelender

HOUSE BILL 06S-1021

HOUSE SPONSORSHIP

McGihon,

SENATE SPONSORSHIP

(None),

House Committees

Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A REQUIREMENT THAT A PERSON WITHHOLD COLORADO**
102 **INCOME TAX FROM A PAYMENT TO A PERSON OTHER THAN AN**
103 **EMPLOYEE IN THE ABSENCE OF A VALIDATED TAXPAYER**
104 **IDENTIFICATION NUMBER.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires a person who makes a payment to any person that is not otherwise subject to state income tax withholding but that requires an information return to deduct and withhold state income tax from that payment at a rate of 4.63% if the backup withholding provisions of the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

internal revenue code apply to the payment. Requires a person who makes any payment for services to a natural person that is not reported on any information return to deduct and withhold state income tax at the rate of 4.63%. Creates an exception to these withholding requirements if the person making the payment has a validated taxpayer identification number from the person to whom the payment is made.

Authorizes the department of revenue to promulgate rules.
Defines a term.

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

2 **SECTION 1.** Article 37.5 of title 24, Colorado Revised Statutes,
3 is amended BY THE ADDITION OF A NEW SECTION to read:

4 **24-37.5-107. Work eligibility verification portal.** THE OFFICE
5 SHALL, WITHIN EXISTING RESOURCES, ESTABLISH A WORK ELIGIBILITY
6 VERIFICATION PORTAL THAT ENABLES A PERSON TO ACCESS A DATABASE
7 TO VERIFY WHETHER A TAXPAYER IDENTIFICATION NUMBER IS VALID.

8 **SECTION 2.** 39-22-604, Colorado Revised Statutes, is amended
9 BY THE ADDITION OF A NEW SUBSECTION to read:

10 **39-22-604. Withholding tax - requirement to withhold - tax**
11 **lien - exemption from lien - definitions.** (18) (a) A PERSON WHO MAKES
12 A PAYMENT TO ANY PERSON THAT IS NOT OTHERWISE SUBJECT TO STATE
13 INCOME TAX WITHHOLDING BUT THAT REQUIRES AN INFORMATION
14 RETURN, INCLUDING BUT NOT LIMITED TO ANY PAYMENT FOR WHICH
15 FEDERAL TAX FORM 1099 IS REQUIRED, SHALL DEDUCT AND WITHHOLD
16 STATE INCOME TAX FROM THAT PAYMENT AT A RATE OF FOUR AND
17 SIXTY-THREE ONE-HUNDREDTHS PERCENT IF THE PROVISIONS OF SECTION
18 3406 OF THE INTERNAL REVENUE CODE APPLY TO THE PAYMENT; EXCEPT
19 THAT SUCH AMOUNT SHALL NOT BE DEDUCTED AND WITHHELD IF THE
20 PERSON MAKING THE PAYMENT HAS A VALIDATED TAXPAYER
21 IDENTIFICATION NUMBER FROM THE PERSON TO WHOM THE PAYMENT IS

1 MADE.

2 (b) A PERSON WHO MAKES ANY PAYMENT FOR SERVICES TO A
3 NATURAL PERSON THAT IS NOT REPORTED ON ANY INFORMATION RETURN
4 SHALL DEDUCT AND WITHHOLD STATE INCOME TAX AT THE RATE OF FOUR
5 AND SIXTY-THREE ONE-HUNDREDTHS PERCENT, UNLESS THE PERSON
6 MAKING PAYMENT HAS A VALIDATED TAXPAYER IDENTIFICATION NUMBER
7 FROM THE PERSON TO WHOM PAYMENT IS MADE.

8 (c) FOR PURPOSES OF ALL OTHER PROVISIONS OF THIS SECTION,
9 EXCLUDING PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION, A
10 PERSON WHO DEDUCTS AND WITHHOLDS STATE INCOME TAX FROM A
11 PERSON WHO PERFORMS SERVICES PURSUANT TO THE PROVISIONS OF THIS
12 SUBSECTION (18) SHALL BE TREATED AS AN EMPLOYER WITHHOLDING AND
13 DEDUCTING WAGES FROM AN EMPLOYEE, AND SUCH OTHER PROVISIONS OF
14 THIS SECTION SHALL APPLY ACCORDINGLY. THIS PARAGRAPH (c) SHALL
15 NOT BE CONSTRUED AS MAKING THE PERSON WHO PERFORMED THE
16 SERVICES AN EMPLOYEE OF THE PERSON WHO DEDUCTS AND WITHHOLDS
17 STATE INCOME TAX FOR ANY OTHER PURPOSE IN LAW.

18 (d) THE EXECUTIVE DIRECTOR MAY PROMULGATE RULES TO
19 AUTHORIZE ANY AMOUNTS DEDUCTED AND WITHHELD PURSUANT TO THIS
20 SUBSECTION (18) TO BE PAID TO THE DEPARTMENT OF REVENUE AS PART
21 OF THE STATE INCOME TAX RETURN.

22 (e) FOR PURPOSES OF THIS SUBSECTION (18), "VALIDATED
23 TAXPAYER IDENTIFICATION NUMBER" MEANS A NUMBER THAT HAS BEEN
24 CONFIRMED THROUGH THE PORTAL DESCRIBED IN SECTION 24-37.5-107,
25 C.R.S., OR ANY OTHER EQUALLY EFFECTIVE FORM OF THIRD-PARTY
26 VERIFICATION APPROVED BY THE DEPARTMENT OF REVENUE.

27 **SECTION 3. Effective date - applicability.** (1) This act shall

1 take effect January 1, 2007.

2 (2) However, if a referendum petition is filed against this act or
3 an item, section, or part of this act during the 90-day period after final
4 adjournment of the general assembly that is allowed for submitting a
5 referendum petition pursuant to article V, section 1 (3) of the state
6 constitution, then the act, item, section, or part, shall not take effect unless
7 approved by the people at a biennial regular general election and shall
8 take effect on the date specified in subsection (1) or on the date of the
9 official declaration of the vote thereon by proclamation of the governor,
10 whichever is later.

11 (3) The provisions of this act shall apply to payments made on or
12 after the applicable effective date of this act for services performed on or
13 after the applicable effective date of this act.