

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 13-0419.02 Ed DeCecco x4216

SENATE BILL 13-001

SENATE SPONSORSHIP

Kefalas and Morse, Aguilar, Guzman, Ulibarri

HOUSE SPONSORSHIP

Kagan, Levy

Senate Committees
State, Veterans, & Military Affairs
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING INCOME TAX CREDITS TO SUPPORT WORKING FAMILIES,**
102 **AND, IN CONNECTION THEREWITH, ENACTING THE "COLORADO**
103 **WORKING FAMILIES ECONOMIC OPPORTUNITY ACT OF 2013"**
104 **AND MAKING AN APPROPRIATION.**

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://www.leg.state.co.us/billsummaries>.)

Section 2 of the bill modifies the existing child care expenses income tax credit by:

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.*

- ! Allowing a taxpayer who is eligible for, but does not claim, the federal child care expenses income tax credit to claim the state credit;
- ! Basing the amount of the state credit on the eligible federal credit as opposed to the actual federal credit claimed; and
- ! Allowing the credit to be claimed for expenses related to caring for a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself and who lives with the taxpayer.

Section 3 of the bill creates a child tax credit against state income taxes for a resident individual who is eligible to claim the federal child tax credit. The amount of this credit is \$100 for each qualifying child who is 5 years of age or under at the end of the taxable year for which the credit is claimed. This credit is refundable.

The Colorado earned income tax credit, which is 10% of the federal earned income tax credit, is a refund mechanism under the taxpayer's bill of rights (TABOR). So, it only applies if the state revenues are in excess of the constitutional limitation on state fiscal year spending. **Section 4** of the bill removes this contingency so that an eligible taxpayer may claim the Colorado earned income tax credit for any tax year beginning in 2013.

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

2 **SECTION 1. Short title.** This act shall be known and may be
 3 cited as the "Colorado Working Families Economic Opportunity Act of
 4 2013".

5 **SECTION 2.** In Colorado Revised Statutes, 39-22-123, **add** (6)
 6 as follows:

7 **39-22-123. Earned income tax credit - refund of state excess**
 8 **revenues for fiscal years commencing on or after July 1, 1998. (6) NO**
 9 **CREDIT IS ALLOWED UNDER THIS SECTION FOR AN INCOME TAX YEAR FOR**
 10 **WHICH A CREDIT IS ALLOWED UNDER SECTION 39-22-123.5.**

11 **SECTION 3.** In Colorado Revised Statutes, **add** 39-22-123.5 as
 12 follows:

13 **39-22-123.5. Earned income tax credit - not a refund of excess**

1 state revenues - trigger - legislative declaration. (1) THE GENERAL
2 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

3 (a) THE FEDERAL EARNED INCOME TAX CREDIT IS A REFUNDABLE
4 TAX CREDIT FOR LOW- AND MIDDLE-INCOME WORKING INDIVIDUALS AND
5 FAMILIES WHOSE EARNINGS ARE BELOW AN INCOME THRESHOLD;

6 (b) THE AMOUNT OF THE CREDIT INCREASES WITH INCOME UNTIL
7 THE CREDIT REACHES A MAXIMUM LEVEL AND THEN PHASES OUT, AND THIS
8 STRUCTURE CREATES AN INCENTIVE FOR PEOPLE TO WORK AND EARN
9 MORE INCOME;

10 (c) SINCE ITS ESTABLISHMENT IN 1975, THE CREDIT HAS INCREASED
11 FAMILY INCOME, REDUCED CHILD POVERTY, AND PROMOTED EMPLOYMENT
12 BY SUPPLEMENTING THE EARNINGS OF LOW-WAGE WORKERS, INCLUDING
13 MILITARY FAMILIES;

14 (d) THE CREDIT HAS A POSITIVE IMPACT ON THE EDUCATION AND
15 HEALTH OF CHILDREN LIVING IN POVERTY;

16 (e) THE CREDIT HAS A POSITIVE ECONOMIC IMPACT ON LOCAL
17 ECONOMIES AND BUSINESSES BECAUSE IT PUTS MORE MONEY IN THE
18 HANDS OF LOW- AND MIDDLE-INCOME WORKING PEOPLE WHO SPEND THE
19 MONEY ON IMMEDIATE NEEDS, SUCH AS GROCERIES, SCHOOL SUPPLIES, CAR
20 REPAIRS, RENT, AND HEALTH CARE;

21 (f) THE COLORADO EARNED INCOME TAX CREDIT, WHICH IS
22 CURRENTLY TEN PERCENT OF THE FEDERAL EARNED INCOME TAX CREDIT,
23 IS A MECHANISM TO REFUND EXCESS STATE REVENUES AS REQUIRED BY
24 SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION;

25 (g) THE COLORADO EARNED INCOME TAX CREDIT HAS NOT BEEN
26 IN EFFECT SINCE 2001 BECAUSE THE REFUND HAS NOT BEEN TRIGGERED;
27 AND

1 (h) NOW, THEREFORE, IT IS THE INTENT OF THE GENERAL
2 ASSEMBLY TO ESTABLISH A PERMANENT AND REFUNDABLE STATE EARNED
3 INCOME TAX CREDIT FOR ELIGIBLE COLORADO TAXPAYERS, WHICH IS
4 EQUAL TO A PERCENTAGE OF THE FEDERAL EARNED INCOME TAX CREDIT.
5 THE INTENDED PURPOSE OF THIS CREDIT IS TO HELP INDIVIDUALS AND
6 FAMILIES ACHIEVE GREATER FINANCIAL SECURITY AND TO HELP
7 COLORADO'S ECONOMY.

8 (2) FOR AN INCOME TAX YEAR SPECIFIED IN PARAGRAPH (a) OF
9 SUBSECTION (3) OF THIS SECTION, A RESIDENT INDIVIDUAL WHO CLAIMS AN
10 EARNED INCOME TAX CREDIT ON THE INDIVIDUAL'S FEDERAL TAX RETURN
11 IS ALLOWED AN EARNED INCOME TAX CREDIT AGAINST THE TAXES DUE
12 UNDER THIS ARTICLE. THE AMOUNT OF THE CREDIT IS A PORTION OF THE
13 FEDERAL CREDIT CLAIMED ON THE RESIDENT INDIVIDUAL'S FEDERAL TAX
14 RETURN THAT DEPENDS ON THE YEAR IN WHICH IT IS CLAIMED. THE CREDIT
15 IS EQUAL TO SEVEN PERCENT OF THE FEDERAL CREDIT FOR THE FIRST
16 INCOME TAX YEAR THAT THE CREDIT IS ALLOWED AS A RESULT OF THE
17 OPERATION OF SUBSECTION (3) OF THIS SECTION, EIGHT AND ONE-HALF
18 PERCENT FOR THE NEXT INCOME TAX YEAR, AND TEN PERCENT OF THE
19 FEDERAL CREDIT FOR ALL INCOME TAX YEARS THEREAFTER.

20 (3) (a) IF THE ESTIMATE OF GROSS GENERAL FUND REVENUE FOR
21 THE FISCAL YEAR 2013-14, OR THE NEXT TWO FISCAL YEARS THEREAFTER,
22 INCREASES BY AT LEAST ONE HUNDRED MILLION DOLLARS FROM THE
23 MARCH ESTIMATE THAT PRECEDES THE FISCAL YEAR TO ANY OF THE NEXT
24 FOUR QUARTERLY ESTIMATES AFTER THE MARCH ESTIMATE, THE TAX
25 CREDIT ALLOWED UNDER THIS SECTION MAY BE CLAIMED FOR ANY INCOME
26 TAX YEAR COMMENCING ON OR AFTER JANUARY 1 OF THE FISCAL YEAR
27 FOR WHICH THE ESTIMATE INCREASED.

1 (b) FOR PURPOSES OF PARAGRAPH (a) OF THIS SUBSECTION (3), ALL
2 OF THE ESTIMATES OF GROSS GENERAL FUND REVENUE FOR A GIVEN FISCAL
3 YEAR ARE SOLELY FROM LEGISLATIVE COUNCIL STAFF OR THE OFFICE OF
4 STATE PLANNING AND BUDGETING, WHICHEVER AGENCY HAS THE LOWER
5 MARCH ESTIMATE FOR THE FISCAL YEAR.

6 (c) IF THE ESTIMATE OF GROSS GENERAL FUND REVENUE HAS
7 INCREASED ENOUGH TO TRIGGER THE TAX CREDIT, LEGISLATIVE COUNCIL
8 STAFF OR THE OFFICE OF STATE PLANNING AND BUDGETING, DEPENDING ON
9 PARAGRAPH (b) OF THIS SUBSECTION (3), SHALL CERTIFY SUCH FACT IN THE
10 APPLICABLE QUARTERLY ESTIMATE.

11 (4) THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION
12 THAT EXCEEDS THE RESIDENT INDIVIDUAL'S INCOME TAXES DUE IS
13 REFUNDED TO THE INDIVIDUAL.

14 (5) IN THE CASE OF A PART-YEAR RESIDENT, THE CREDIT ALLOWED
15 UNDER THIS SECTION IS APPORTIONED IN THE RATIO DETERMINED UNDER
16 SECTION 39-22-110 (1).

17 (6) THE CREDIT ALLOWED UNDER THIS SECTION IS NOT
18 CONSIDERED TO BE INCOME OR RESOURCES FOR THE PURPOSE OF
19 DETERMINING ELIGIBILITY FOR THE PAYMENT OF PUBLIC ASSISTANCE
20 BENEFITS AND MEDICAL ASSISTANCE BENEFITS AUTHORIZED UNDER STATE
21 LAW OR FOR A PAYMENT MADE UNDER ANY OTHER PUBLICLY FUNDED
22 PROGRAMS.

23 **SECTION 4.** In Colorado Revised Statutes, **add 39-22-129 as**
24 **follows:**

25 **39-22-129. Child tax credit - trigger - legislative declaration -**
26 **definitions.** (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND
27 DECLARES THAT:

1 (I) THE FEDERAL CHILD TAX CREDIT, WHICH INCLUDES THE
2 REFUNDABLE PORTION OF THE CREDIT COMMONLY KNOWN AS THE
3 ADDITIONAL CHILD TAX CREDIT, SUPPORTS LOW- AND MIDDLE-INCOME
4 WORKING FAMILIES WHOSE EARNINGS ARE BELOW AN INCOME THRESHOLD
5 AND WHO HAVE CHILDREN UNDER SEVENTEEN YEARS OF AGE;

6 (II) SINCE ITS ESTABLISHMENT AT THE FEDERAL LEVEL IN 1997,
7 THE CREDIT HAS INCREASED FAMILY INCOME, REDUCED CHILD POVERTY
8 AMONG FAMILIES WITH CHILDREN, AND SUPPORTED LOCAL ECONOMIES;
9 AND

10 (III) THE CREDIT HAS A POSITIVE IMPACT ON THE EARLY
11 CHILDHOOD DEVELOPMENT AND HEALTH OF CHILDREN WHOSE FAMILIES
12 GAIN INCOME FROM THE CREDIT.

13 (b) NOW, THEREFORE, IT IS THE INTENT OF THE GENERAL
14 ASSEMBLY TO ESTABLISH A PERMANENT AND REFUNDABLE STATE CHILD
15 TAX CREDIT FOR ELIGIBLE COLORADO TAXPAYERS, WHICH IS EQUAL TO A
16 PERCENTAGE OF THE FEDERAL CREDIT BASED ON A FAMILY'S ADJUSTED
17 GROSS INCOME. THE INTENDED PURPOSE OF THIS CREDIT IS TO SUPPORT
18 COLORADO WORKING FAMILIES WITH YOUNG CHILDREN, REDUCE CHILD
19 POVERTY, AND TO HELP COLORADO'S ECONOMY.

20 (2) AS USED IN THIS SECTION:

21 (a) "ELIGIBLE CHILD" MEANS A QUALIFYING CHILD FOR PURPOSES
22 OF THE FEDERAL CHILD TAX CREDIT WHO IS UNDER SIX YEARS OF AGE AT
23 THE END OF THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED.

24 (b) "FEDERAL CHILD TAX CREDIT" MEANS THE CHILD TAX CREDIT
25 ALLOWED UNDER SECTION 24 OF THE INTERNAL REVENUE CODE, OR ANY
26 SUCCESSOR SECTION, AND INCLUDES THE REFUNDABLE PORTION OF THE
27 TAX CREDIT, WHICH PORTION IS REFERRED TO AS THE ADDITIONAL CHILD

1 CREDIT.

2 (3) (a) FOR AN INCOME TAX YEAR SPECIFIED IN PARAGRAPH (a) OF
3 SUBSECTION (4) OF THIS SECTION, A RESIDENT INDIVIDUAL WHO CLAIMS A
4 FEDERAL CHILD TAX CREDIT FOR AN ELIGIBLE CHILD ON THE INDIVIDUAL'S
5 FEDERAL TAX RETURN IS ALLOWED A CHILD TAX CREDIT AGAINST THE
6 INCOME TAXES DUE UNDER THIS ARTICLE.

7 (b) (I) FOR A RESIDENT INDIVIDUAL WHO FILES A SINGLE RETURN,
8 THE AMOUNT OF THE CREDIT IS EQUAL TO:

9 (A) THIRTY PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT
10 THE RESIDENT INDIVIDUAL CLAIMED ON HIS OR HER FEDERAL TAX RETURN
11 FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUAL'S FEDERAL ADJUSTED GROSS
12 INCOME IS TWENTY-FIVE THOUSAND DOLLARS OR LESS;

13 (B) FIFTEEN PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT
14 THE RESIDENT INDIVIDUAL CLAIMED ON HIS OR HER FEDERAL TAX RETURN
15 FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUAL'S FEDERAL ADJUSTED GROSS
16 INCOME IS GREATER THAN TWENTY-FIVE THOUSAND DOLLARS BUT LESS
17 THAN OR EQUAL TO FIFTY THOUSAND DOLLARS; AND

18 (C) FIVE PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT THE
19 RESIDENT INDIVIDUAL CLAIMED ON HIS OR HER FEDERAL TAX RETURN FOR
20 EACH ELIGIBLE CHILD, IF THE INDIVIDUAL'S FEDERAL ADJUSTED GROSS
21 INCOME IS GREATER THAN FIFTY THOUSAND DOLLARS BUT LESS THAN OR
22 EQUAL TO SEVENTY-FIVE THOUSAND DOLLARS.

23 (II) A RESIDENT INDIVIDUAL WHO FILES A SINGLE RETURN AND
24 WHOSE FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN
25 SEVENTY-FIVE THOUSAND DOLLARS IS NOT ALLOWED A CREDIT UNDER
26 THIS SECTION.

27 (c) (I) FOR TWO RESIDENT INDIVIDUALS WHO FILE A JOINT RETURN,

1 THE AMOUNT OF THE CREDIT IS EQUAL TO:

2 (A) THIRTY PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT
3 THE RESIDENT INDIVIDUALS CLAIMED ON THEIR FEDERAL TAX RETURN FOR
4 EACH ELIGIBLE CHILD, IF THE INDIVIDUALS' FEDERAL ADJUSTED GROSS
5 INCOME IS THIRTY-FIVE THOUSAND DOLLARS OR LESS;

6 (B) FIFTEEN PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT
7 THE RESIDENT INDIVIDUALS CLAIMED ON THEIR FEDERAL TAX RETURN FOR
8 EACH ELIGIBLE CHILD, IF THE INDIVIDUALS' FEDERAL ADJUSTED GROSS
9 INCOME IS GREATER THAN THIRTY-FIVE THOUSAND DOLLARS BUT LESS
10 THAN OR EQUAL TO SIXTY THOUSAND DOLLARS; AND

11 (C) FIVE PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT THE
12 RESIDENT INDIVIDUALS CLAIMED ON THEIR FEDERAL TAX RETURN FOR
13 EACH ELIGIBLE CHILD, IF THE INDIVIDUALS' FEDERAL ADJUSTED GROSS
14 INCOME IS GREATER THAN SIXTY THOUSAND DOLLARS BUT LESS THAN OR
15 EQUAL TO EIGHTY-FIVE THOUSAND DOLLARS.

16 (II) TWO RESIDENT INDIVIDUALS WHO FILE A JOINT RETURN AND
17 WHOSE FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN EIGHTY-FIVE
18 THOUSAND DOLLARS ARE NOT ALLOWED A CREDIT UNDER THIS SECTION.

19 (4) (a) IF THE ESTIMATE OF GROSS GENERAL FUND REVENUE FOR
20 THE FISCAL YEAR 2013-14, OR THE NEXT TWO FISCAL YEARS THEREAFTER,
21 INCREASES BY AT LEAST ONE HUNDRED MILLION DOLLARS FROM THE
22 MARCH ESTIMATE THAT PRECEDES THE FISCAL YEAR TO ANY OF THE NEXT
23 FOUR QUARTERLY ESTIMATES AFTER THE MARCH ESTIMATE, THE TAX
24 CREDIT ALLOWED UNDER THIS SECTION MAY BE CLAIMED FOR ANY INCOME
25 TAX YEAR COMMENCING ON OR AFTER JANUARY 1 OF THE FISCAL YEAR
26 FOR WHICH THE ESTIMATE INCREASED.

27 (b) FOR PURPOSES OF PARAGRAPH (a) OF THIS SUBSECTION (4), ALL

1 OF THE ESTIMATES OF GROSS GENERAL FUND REVENUE FOR A GIVEN FISCAL
2 YEAR ARE SOLELY FROM LEGISLATIVE COUNCIL STAFF OR THE OFFICE OF
3 STATE PLANNING AND BUDGETING, WHICHEVER AGENCY HAS THE LOWER
4 MARCH ESTIMATE FOR THE FISCAL YEAR.

5 (c) IF THE ESTIMATE OF GROSS GENERAL FUND REVENUE HAS
6 INCREASED ENOUGH TO TRIGGER THE TAX CREDIT, LEGISLATIVE COUNCIL
7 STAFF OR THE OFFICE OF STATE PLANNING AND BUDGETING, DEPENDING ON
8 PARAGRAPH (b) OF THIS SUBSECTION (3), SHALL CERTIFY SUCH FACT IN THE
9 APPLICABLE QUARTERLY ESTIMATE.

10 (5) THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION
11 THAT EXCEEDS THE RESIDENT INDIVIDUAL'S INCOME TAXES DUE IS
12 REFUNDED TO THE INDIVIDUAL.

13 (6) IN THE CASE OF A PART-YEAR RESIDENT, THE CREDIT ALLOWED
14 UNDER THIS SECTION IS APPORTIONED IN THE RATIO DETERMINED UNDER
15 SECTION 39-22-110 (1).

16 (7) THE CREDIT ALLOWED UNDER THIS SECTION IS NOT
17 CONSIDERED TO BE INCOME OR RESOURCES FOR THE PURPOSE OF
18 DETERMINING ELIGIBILITY FOR THE PAYMENT OF PUBLIC ASSISTANCE
19 BENEFITS AND MEDICAL ASSISTANCE BENEFITS AUTHORIZED UNDER STATE
20 LAW OR FOR A PAYMENT MADE UNDER ANY OTHER PUBLICLY FUNDED
21 PROGRAMS.

22 **SECTION 5. In Colorado Revised Statutes, 39-22-627, add (9)**
23 **as follows:**

24 **39-22-627. Temporary adjustment of rate of income tax -**
25 **refund of excess state revenues - authority of executive director.**

26 **(9) IF, BY OPERATION OF SECTION 39-22-123 (6), EXCESS STATE REVENUES**
27 **ARE NO LONGER REFUNDED THROUGH AN EARNED INCOME TAX CREDIT,**

1 THE TOTAL OF THE ADJUSTED AMOUNT SET FORTH IN SECTION 39-22-123
2 (4) (c) IS NOT ADDED TO THE ESTIMATED AMOUNT BY WHICH STATE
3 REVENUES WOULD BE DECREASED AS THE RESULT OF A REDUCTION IN THE
4 STATE INCOME TAX RATE FOR PURPOSES OF THE CALCULATIONS SET FORTH
5 IN PARAGRAPH (b) OF SUBSECTION (1) AND SUBSECTIONS (3) AND (6) OF
6 THIS SECTION.

7 **SECTION 6. Appropriation.** In addition to any other
8 appropriation, there is hereby appropriated, out of any moneys in the
9 general fund not otherwise appropriated, to the department of revenue, for
10 the fiscal year beginning July 1, 2013, the sum of \$106,000, or so much
11 thereof as may be necessary, for allocation to the taxation business group
12 for contract programming services related to the implementation of this
13 act.

14 **SECTION 7. Act subject to petition - effective date.** This act
15 takes effect at 12:01 a.m. on the day following the expiration of the
16 ninety-day period after final adjournment of the general assembly (August
17 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a
18 referendum petition is filed pursuant to section 1 (3) of article V of the
19 state constitution against this act or an item, section, or part of this act
20 within such period, then the act, item, section, or part will not take effect
21 unless approved by the people at the general election to be held in
22 November 2014 and, in such case, will take effect on the date of the
23 official declaration of the vote thereon by the governor.