SENATE BILL 13-001

A BILL FOR AN ACT

CONCERNING INCOME TAX CREDITS TO SUPPORT WORKING FAMILIES,
AND, IN CONNECTION THEREWITH, ENACTING THE "COLORADO WORKING FAMILIES ECONOMIC OPPORTUNITY ACT OF 2013"
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.

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

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

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

39-22-123. Earned income tax credit - refund of state excess revenues for fiscal years commencing on or after July 1, 1998. (6) No credit is allowed under this section for an income tax year for which a credit is allowed under section 39-22-123.5.

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

39-22-123.5. Earned income tax credit - not a refund of excess revenues for fiscal years commencing on or after July 1, 1998.
The General Assembly hereby finds and declares that:

(a) The federal earned income tax credit is a refundable tax credit for low- and middle-income working individuals and families whose earnings are below an income threshold;

(b) The amount of the credit increases with income until the credit reaches a maximum level and then phases out, and this structure creates an incentive for people to work and earn more income;

(c) Since its establishment in 1975, the credit has increased family income, reduced child poverty, and promoted employment by supplementing the earnings of low-wage workers, including military families;

(d) The credit has a positive impact on the education and health of children living in poverty;

(e) The credit has a positive economic impact on local economies and businesses because it puts more money in the hands of low- and middle-income working people who spend the money on immediate needs, such as groceries, school supplies, car repairs, rent, and health care;

(f) The Colorado earned income tax credit, which is currently ten percent of the federal earned income tax credit, is a mechanism to refund excess state revenues as required by section 20 of article X of the state constitution;

(g) The Colorado earned income tax credit has not been in effect since 2001 because the refund has not been triggered; and
(h) Now, therefore, it is the intent of the General Assembly to establish a permanent and refundable state earned income tax credit for eligible Colorado taxpayers, which is equal to a percentage of the federal earned income tax credit. The intended purpose of this credit is to help individuals and families achieve greater financial security and to help Colorado's economy.

(2) For an income tax year specified in paragraph (a) of subsection (3) of this section, a resident individual who claims an earned income tax credit on the individual’s federal tax return is allowed an earned income tax credit against the taxes due under this article. The amount of the credit is a portion of the federal credit claimed on the resident individual’s federal tax return that depends on the year in which it is claimed. The credit is equal to seven percent of the federal credit for the first income tax year that the credit is allowed as a result of the operation of subsection (3) of this section, eight and one-half percent for the next income tax year, and ten percent of the federal credit for all income tax years thereafter.

(3) (a) If the estimate of gross general fund revenue for the fiscal year 2013-14, or the next two fiscal years thereafter, increases by at least one hundred million dollars from the March estimate that precedes the fiscal year to any of the next four quarterly estimates after the March estimate, the tax credit allowed under this section may be claimed for any income tax year commencing on or after January 1 of the fiscal year for which the estimate increased.
(b) FOR PURPOSES OF PARAGRAPH (a) OF THIS SUBSECTION (3), ALL
OF THE ESTIMATES OF GROSS GENERAL FUND REVENUE FOR A GIVEN FISCAL
YEAR ARE SOLELY FROM LEGISLATIVE COUNCIL STAFF OR THE OFFICE OF
STATE PLANNING AND BUDGETING, WHICHEVER AGENCY HAS THE LOWER
MARCH ESTIMATE FOR THE FISCAL YEAR.

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

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

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

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

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

39-22-129. Child tax credit - trigger - legislative declaration -
definitions. (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND
DECLARER THAT:
THE FEDERAL CHILD TAX CREDIT, WHICH INCLUDES THE REFUNDABLE PORTION OF THE CREDIT COMMONLY KNOWN AS THE ADDITIONAL CHILD TAX CREDIT, SUPPORTS LOW- AND MIDDLE-INCOME WORKING FAMILIES WHOSE EARNINGS ARE BELOW AN INCOME THRESHOLD AND WHO HAVE CHILDREN UNDER SEVENTEEN YEARS OF AGE;

SINCE ITS ESTABLISHMENT AT THE FEDERAL LEVEL IN 1997, THE CREDIT HAS INCREASED FAMILY INCOME, REDUCED CHILD POVERTY AMONG FAMILIES WITH CHILDREN, AND SUPPORTED LOCAL ECONOMIES; AND

THE CREDIT HAS A POSITIVE IMPACT ON THE EARLY CHILDHOOD DEVELOPMENT AND HEALTH OF CHILDREN WHOSE FAMILIES GAIN INCOME FROM THE CREDIT.

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

AS USED IN THIS SECTION:

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

(b) "FEDERAL CHILD TAX CREDIT" MEANS THE CHILD TAX CREDIT ALLOWED UNDER SECTION 24 OF THE INTERNAL REVENUE CODE, OR ANY SUCCESSOR SECTION, AND INCLUDES THE REFUNDABLE PORTION OF THE TAX CREDIT, WHICH PORTION IS REFERRED TO AS THE ADDITIONAL CHILD
(3) (a) For an income tax year specified in paragraph (a) of subsection (4) of this section, a resident individual who claims a Federal child tax credit for an eligible child on the individual’s Federal tax return is allowed a child tax credit against the income taxes due under this article.

(b) (I) For a resident individual who files a single return, the amount of the credit is equal to:

(A) Thirty percent of the Federal child tax credit that the resident individual claimed on his or her Federal tax return for each eligible child, if the individual’s Federal adjusted gross income is twenty-five thousand dollars or less;

(B) Fifteen percent of the Federal child tax credit that the resident individual claimed on his or her Federal tax return for each eligible child, if the individual’s Federal adjusted gross income is greater than twenty-five thousand dollars but less than or equal to fifty thousand dollars; and

(C) Five percent of the Federal child tax credit that the resident individual claimed on his or her Federal tax return for each eligible child, if the individual’s Federal adjusted gross income is greater than fifty thousand dollars but less than or equal to seventy-five thousand dollars.

(II) A resident individual who files a single return and whose Federal adjusted gross income is greater than seventy-five thousand dollars is not allowed a credit under this section.

(c) (I) For two resident individuals who file a joint return,
THE AMOUNT OF THE CREDIT IS EQUAL TO:

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

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

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

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

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

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

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

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

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

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

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


(9) IF, BY OPERATION OF SECTION 39-22-123 (6), EXCESS STATE REVENUES ARE NO LONGER REFUNDED THROUGH AN EARNED INCOME TAX CREDIT,
THE TOTAL OF THE ADJUSTED AMOUNT SET FORTH IN SECTION 39-22-123
(4) (c) IS NOT ADDED TO THE ESTIMATED AMOUNT BY WHICH STATE
REVENUES WOULD BE DECREASED AS THE RESULT OF A REDUCTION IN THE
STATE INCOME TAX RATE FOR PURPOSES OF THE CALCULATIONS SET FORTH
IN PARAGRAPH (b) OF SUBSECTION (1) AND SUBSECTIONS (3) AND (6) OF
THIS SECTION.

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

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