

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
State, Veterans, & Military Affairs
Finance

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.*

SENATE
3rd Reading Unamended
April 17, 2013

SENATE
Amended 2nd Reading
April 16, 2013

- ! 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 CREATED IN
22 SECTION 39-22-123 IS TEN PERCENT OF THE FEDERAL EARNED INCOME
23 TAX CREDIT, BUT IT IS A MECHANISM TO REFUND EXCESS STATE REVENUES
24 AS REQUIRED BY SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION;

25 (g) THIS EXISTING CREDIT HAS NOT BEEN IN EFFECT SINCE 2001
26 BECAUSE THE REFUND HAS NOT BEEN TRIGGERED; AND

27 (h) NOW, THEREFORE, IT IS THE INTENT OF THE GENERAL

1 ASSEMBLY TO ESTABLISH A PERMANENT AND REFUNDABLE STATE EARNED
2 INCOME TAX CREDIT FOR ELIGIBLE COLORADO TAXPAYERS, WHICH IS
3 EQUAL TO TEN PERCENT OF THE FEDERAL EARNED INCOME TAX CREDIT.
4 THE INTENDED PURPOSE OF THIS CREDIT IS TO HELP INDIVIDUALS AND
5 FAMILIES ACHIEVE GREATER FINANCIAL SECURITY AND TO HELP
6 COLORADO'S ECONOMY.

7 (2) FOR AN INCOME TAX YEAR SPECIFIED IN SUBSECTION (3) OF
8 THIS SECTION, A RESIDENT INDIVIDUAL WHO CLAIMS AN EARNED INCOME
9 TAX CREDIT ON THE INDIVIDUAL'S FEDERAL TAX RETURN IS ALLOWED AN
10 EARNED INCOME TAX CREDIT AGAINST THE TAXES DUE UNDER THIS
11 ARTICLE THAT IS EQUAL TO TEN PERCENT OF THE FEDERAL CREDIT THAT
12 THE RESIDENT INDIVIDUAL CLAIMED ON HIS OR HER FEDERAL TAX RETURN
13 FOR THE SAME TAX YEAR.

14 (3) IF A CREDIT IS ALLOWED UNDER SECTION 39-22-123 FOR AN
15 INCOME TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2013, THE
16 CREDIT ALLOWED UNDER THIS SECTION MAY BE CLAIMED FOR ANY INCOME
17 TAX YEAR BEGINNING WITH THE INCOME TAX YEAR AFTER THE INCOME
18 TAX YEAR THAT THE CREDIT IS ALLOWED UNDER SECTION 39-22-123.

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

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

25 (6) THE CREDIT ALLOWED UNDER THIS SECTION IS NOT
26 CONSIDERED TO BE INCOME OR RESOURCES FOR THE PURPOSE OF
27 DETERMINING ELIGIBILITY FOR THE PAYMENT OF PUBLIC ASSISTANCE

1 BENEFITS AND MEDICAL ASSISTANCE BENEFITS AUTHORIZED UNDER STATE
2 LAW OR FOR A PAYMENT MADE UNDER ANY OTHER PUBLICLY FUNDED
3 PROGRAMS.

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

6 **39-22-129. Child tax credit - trigger - legislative declaration -**
7 **definitions.** (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND
8 DECLARES THAT:

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

14 (II) SINCE ITS ESTABLISHMENT AT THE FEDERAL LEVEL IN 1997,
15 THE CREDIT HAS INCREASED FAMILY INCOME, REDUCED CHILD POVERTY
16 AMONG FAMILIES WITH CHILDREN, AND SUPPORTED LOCAL ECONOMIES;
17 AND

18 (III) THE CREDIT HAS A POSITIVE IMPACT ON THE EARLY
19 CHILDHOOD DEVELOPMENT AND HEALTH OF CHILDREN WHOSE FAMILIES
20 GAIN INCOME FROM THE CREDIT.

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

1 (2) AS USED IN THIS SECTION:

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

5 (b) "FEDERAL CHILD TAX CREDIT" MEANS THE CHILD TAX CREDIT
6 ALLOWED UNDER SECTION 24 OF THE INTERNAL REVENUE CODE, OR ANY
7 SUCCESSOR SECTION, AND INCLUDES THE REFUNDABLE PORTION OF THE
8 TAX CREDIT, WHICH PORTION IS REFERRED TO AS THE ADDITIONAL CHILD
9 CREDIT.

10 (3) (a) FOR AN INCOME TAX YEAR SPECIFIED IN SUBSECTION (4)
11 OF THIS SECTION, A RESIDENT INDIVIDUAL WHO CLAIMS A FEDERAL CHILD
12 TAX CREDIT FOR AN ELIGIBLE CHILD ON THE INDIVIDUAL'S FEDERAL TAX
13 RETURN IS ALLOWED A CHILD TAX CREDIT AGAINST THE INCOME TAXES
14 DUE UNDER THIS ARTICLE FOR THE SAME TAX YEAR.

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

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

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

26 (C) FIVE PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT THE
27 RESIDENT INDIVIDUAL CLAIMED ON HIS OR HER FEDERAL TAX RETURN FOR

1 EACH ELIGIBLE CHILD, IF THE INDIVIDUAL'S FEDERAL ADJUSTED GROSS
2 INCOME IS GREATER THAN FIFTY THOUSAND DOLLARS BUT LESS THAN OR
3 EQUAL TO SEVENTY-FIVE THOUSAND DOLLARS.

4 (II) A RESIDENT INDIVIDUAL WHO FILES A SINGLE RETURN AND
5 WHOSE FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN
6 SEVENTY-FIVE THOUSAND DOLLARS IS NOT ALLOWED A CREDIT UNDER
7 THIS SECTION.

8 (c) (I) FOR TWO RESIDENT INDIVIDUALS WHO FILE A JOINT RETURN,
9 THE AMOUNT OF THE CREDIT IS EQUAL TO:

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

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

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

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

27

1 (4) NO CREDIT IS ALLOWED UNDER THIS SECTION UNTIL THE
2 UNITED STATES CONGRESS HAS ENACTED THE FEDERAL "MARKETPLACE
3 FAIRNESS ACT OF 2013" OR ANY OTHER ACT WITH SUBSTANTIALLY
4 SIMILAR REQUIREMENTS, AND THE STATE HAS ENACTED LEGISLATION TO
5 IMPLEMENT THE MINIMUM SIMPLIFICATION REQUIREMENTS IN THE
6 CONGRESSIONAL ACT. IF THIS TRIGGER OCCURS, THE CREDIT ALLOWED
7 UNDER THIS SECTION MAY BE CLAIMED FOR ANY INCOME TAX YEAR
8 BEGINNING WITH THE INCOME TAX YEAR DURING WHICH THE SECOND OF
9 THE REQUIRED LEGISLATION IS ENACTED; EXCEPT THAT, IF THIS
10 LEGISLATION IS ENACTED AFTER OCTOBER 1 OF A GIVEN YEAR, THE CREDIT
11 IS FIRST AVAILABLE FOR THE INCOME TAX YEAR THAT BEGINS ON JANUARY
12 1 AFTER THE ENACTMENT, AND IN NO CASE MAY THE CREDIT BE CLAIMED
13 PRIOR TO THE 2014 INCOME TAX YEAR.

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

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

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

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

1 **39-22-627. Temporary adjustment of rate of income tax -**
2 **refund of excess state revenues - authority of executive director.**
3 (9) IF, BY OPERATION OF SECTION 39-22-123 (6), EXCESS STATE REVENUES
4 ARE NO LONGER REFUNDED THROUGH AN EARNED INCOME TAX CREDIT,
5 THE TOTAL OF THE ADJUSTED AMOUNT SET FORTH IN SECTION 39-22-123
6 (4) (c) IS NOT ADDED TO THE ESTIMATED AMOUNT BY WHICH STATE
7 REVENUES WOULD BE DECREASED AS THE RESULT OF A REDUCTION IN THE
8 STATE INCOME TAX RATE FOR PURPOSES OF THE CALCULATIONS SET FORTH
9 IN PARAGRAPH (b) OF SUBSECTION (1) AND SUBSECTIONS (3) AND (6) OF
10 THIS SECTION.

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

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