

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 08-0328.01 John Hershey

HOUSE BILL 08-1362

HOUSE SPONSORSHIP

Kefalas,

SENATE SPONSORSHIP

Boyd, and Tochtrop

House Committees

Finance

Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE EARNED INCOME TAX CREDIT, AND MAKING AN**
102 **APPROPRIATION IN CONNECTION THEREWITH.**

Bill Summary

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

Allows the earned income tax credit against state income taxes in income tax years 2008 and 2009. Creates the earned income tax credit fund in the state treasury. Allocates a portion of revenues from the unemployment insurance surcharge tax that would otherwise go to the unemployment compensation fund to the earned income tax credit fund in the fiscal years beginning July 1, 2008, and July 1, 2009, unless:

! The moving average weekly wage declined by more than

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.

- ! a specified percentage during the prior year; or
- ! The moving average amount of unemployment insurance benefits paid increased by more than a specified percentage during the prior year.

Disallows the earned income tax credit for any year in which the unemployment surcharge tax moneys are not allocated to the earned income tax credit fund.

For the fiscal year beginning July 1, 2009, directs the general assembly to appropriate temporary assistance for needy families (TANF) block grant moneys in an amount equal to a specified percentage of the estimated total amount of the earned income tax credit that will be claimed by taxpayers for payment of refunds to those taxpayers.

At the end of each of the 2 fiscal years in which revenues from the unemployment insurance surcharge tax are transferred to the earned income tax credit fund, directs the state treasurer to transfer from the earned income tax credit fund to the general fund the total amount of the state earned income tax credit claimed by taxpayers for the prior year, minus the amount of refunds paid with moneys from the TANF block grant.

Appropriates a specified amount of TANF block grant moneys to the reserve for payment of refunds to taxpayers who claim the state earned income tax credit.

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

2 **SECTION 1.** 8-76-102 (4), Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4 **8-76-102. Rate of tax - surcharge - definitions - repeal.**

5 (4) (e) (I) IN THE FISCAL YEARS COMMENCING JULY 1, 2008, AND JULY 1,
6 2009, THE MONEYS THAT WOULD OTHERWISE BE ALLOCATED TO THE
7 UNEMPLOYMENT COMPENSATION FUND PURSUANT TO PARAGRAPH (d) OF
8 THIS SUBSECTION (4) SHALL BE TRANSMITTED TO THE STATE TREASURER,
9 WHO SHALL CREDIT THE MONEYS TO THE EARNED INCOME TAX CREDIT
10 FUND CREATED IN SECTION 39-22-123 (7), C.R.S.

11 (II) THE ALLOCATION REQUIRED BY SUBPARAGRAPH (I) OF THIS
12 PARAGRAPH (e) SHALL NOT BE MADE IN A FISCAL YEAR IF, ON JUNE 30 OF
13 THE CALENDAR YEAR IN WHICH THE FISCAL YEAR WILL BEGIN, THE

1 DIVISION DETERMINES THAT:

2 (A) THE CURRENT MOVING AVERAGE OF THE AVERAGE WEEKLY
3 WAGE REPORTED BY EMPLOYERS FOR ANY OF THE FOUR MOST RECENT
4 QUARTERS FOR WHICH THIS INFORMATION IS AVAILABLE DECLINED BY
5 THREE PERCENT OR MORE FROM THE PRIOR MOVING AVERAGE FOR THE
6 QUARTER; OR

7 (B) THE CURRENT MOVING AVERAGE OF THE AMOUNT OF BENEFITS
8 PAID PURSUANT TO SECTION 8-74-109 (1) IN ANY OF THE FOUR MOST
9 RECENT QUARTERS FOR WHICH THE AMOUNT IS KNOWN EXCEEDS THE
10 PRIOR MOVING AVERAGE FOR THE QUARTER BY TEN PERCENT OR MORE.

11 (III) AS USED IN THIS PARAGRAPH (e):

12 (A) "CURRENT MOVING AVERAGE" MEANS, FOR A GIVEN QUARTER,
13 THE AVERAGE FOR THE QUARTER AND THE THREE PREVIOUS QUARTERS.

14 (B) "PRIOR MOVING AVERAGE" MEANS, FOR A GIVEN QUARTER,
15 THE AVERAGE FOR THE FOUR QUARTERS PRECEDING THE GIVEN QUARTER.

16 (IV) THIS PARAGRAPH (e) IS REPEALED, EFFECTIVE JANUARY 1,
17 2011.

18 **SECTION 2.** 8-76-102 (5) (a) (I), Colorado Revised Statutes, is
19 amended to read:

20 **8-76-102. Rate of tax - surcharge - repeal.** (5) (a) (I) (A) A
21 solvency tax surcharge shall be assessed when the fund balance on any
22 June 30 is equal to or less than nine-tenths of one percent of the total
23 wages reported by ratable employers for the calendar year, or the most
24 recent available four consecutive quarters prior to the last computation
25 date. The solvency tax surcharge shall be assessed on all ratable
26 employers beginning with the next calendar year, which shall then be
27 added to the employer's standard or computed tax rate. This tax rate

1 added to the employer's tax rate shall also be identified separately on the
2 employer's tax rate notice as the solvency tax surcharge. The solvency tax
3 surcharge shall be initially assessed and then increased in the yearly
4 increments established by paragraph (b) of this subsection (5) until the
5 June 30 fund balance is greater than the fund level established by this
6 subsection (5), but in no case shall THE SURCHARGE exceed the rate
7 schedule in effect January 1, 1990.

8 (B) FOR ANY FISCAL YEAR IN WHICH MONEYS ARE CREDITED TO
9 THE EARNED INCOME TAX CREDIT FUND PURSUANT TO PARAGRAPH (e) OF
10 SUBSECTION (4) OF THIS SECTION, THE UNEMPLOYMENT COMPENSATION
11 FUND BALANCE FOR PURPOSES OF SUB-SUBPARAGRAPH (A) OF THIS
12 SUBPARAGRAPH (I) SHALL BE CALCULATED AS IF THE MONEYS HAD BEEN
13 ALLOCATED TO THE UNEMPLOYMENT COMPENSATION FUND. THIS
14 SUB-SUBPARAGRAPH (B) IS REPEALED, EFFECTIVE JANUARY 1, 2011.

15 **SECTION 3.** 39-22-123, Colorado Revised Statutes, is amended
16 BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to
17 read:

18 **39-22-123. Earned income tax credit - fund - appropriation.**
19 (6) NOTWITHSTANDING SUBSECTIONS (1) AND (4) OF THIS SECTION, THE
20 EARNED INCOME TAX CREDIT AUTHORIZED BY SUBSECTION (1) OF THIS
21 SECTION SHALL BE ALLOWED FOR THE TAX YEARS BEGINNING JANUARY 1,
22 2008, AND JANUARY 1, 2009, UNLESS, IN ACCORDANCE WITH SECTION
23 8-76-102 (4) (e) (II), C.R.S., MONEYS ARE NOT CREDITED TO THE EARNED
24 INCOME TAX CREDIT FUND IN THE FISCAL YEAR THAT BEGINS DURING THAT
25 TAX YEAR.

26 (7) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
27 EARNED INCOME TAX CREDIT FUND, REFERRED TO IN THIS SECTION AS THE

1 "FUND". THE FUND SHALL CONSIST OF MONEYS CREDITED THERETO
2 PURSUANT TO SECTION 8-76-102 (4) (e), C.R.S. ALL INTEREST DERIVED
3 FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE
4 CREDITED TO THE FUND. EXCEPT AS REQUIRED BY SUBSECTION (9) OF THIS
5 SECTION, THE UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND
6 AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT
7 BE TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

8 (8) (a) BY JANUARY 1, 2009, THE EXECUTIVE DIRECTOR SHALL
9 DELIVER TO THE JOINT BUDGET COMMITTEE AN ESTIMATE OF THE TOTAL
10 AMOUNT OF THE EARNED INCOME TAX CREDIT THAT WILL BE CLAIMED BY
11 TAXPAYERS IN THE TAX YEAR BEGINNING JANUARY 1, 2009.

12 (b) FOR THE FISCAL YEAR BEGINNING ON JULY 1, 2009, THE
13 GENERAL ASSEMBLY SHALL APPROPRIATE NO LESS THAN NINETY PERCENT
14 OF THE AMOUNT OF THE ESTIMATE PROVIDED PURSUANT TO PARAGRAPH
15 (a) OF THIS SUBSECTION (8) FROM THE FEDERAL TEMPORARY ASSISTANCE
16 FOR NEEDY FAMILIES BLOCK GRANT TO THE RESERVE CREATED IN SECTION
17 39-22-622 (1) FOR PAYMENT OF REFUNDS TO TAXPAYERS WHO CLAIM THE
18 CREDIT ALLOWED BY THIS SECTION.

19 (c) MONEYS TRANSFERRED TO THE RESERVE PURSUANT TO
20 PARAGRAPH (b) OF THIS SUBSECTION (8) THAT ARE NOT USED TO PAY
21 REFUNDS IN THE FISCAL YEAR BEGINNING JULY 1, 2009, SHALL BE
22 APPROPRIATED BY THE GENERAL ASSEMBLY FOR PURPOSES AUTHORIZED
23 BY FEDERAL LAW FOR THE USE OF MONEYS FROM THE TEMPORARY
24 ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT.

25 (9) BY JUNE 15, 2009, AND BY JUNE 15, 2010, THE EXECUTIVE
26 DIRECTOR SHALL REPORT TO THE STATE TREASURER THE TOTAL AMOUNT
27 OF THE CREDIT ALLOWED BY THIS SECTION CLAIMED BY TAXPAYERS FOR

1 THE PRIOR INCOME TAX YEAR AND THE AMOUNT OF REFUNDS PAID FOR THE
2 PRIOR INCOME TAX YEAR PURSUANT TO SUBSECTION (8) OF THIS SECTION.
3 ON JUNE 30, 2009, AND ON JUNE 30, 2010, THE STATE TREASURER SHALL
4 TRANSFER FROM THE FUND TO THE GENERAL FUND THE TOTAL AMOUNT OF
5 THE CREDIT ALLOWED BY THIS SECTION CLAIMED BY TAXPAYERS FOR THE
6 PRIOR INCOME TAX YEAR, MINUS THE AMOUNT OF REFUNDS PAID FOR THE
7 PRIOR INCOME TAX YEAR PURSUANT TO SUBSECTION (8) OF THIS SECTION.
8 ON JULY 1, 2010, THE STATE TREASURER SHALL TRANSFER ANY
9 UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND TO THE
10 UNEMPLOYMENT COMPENSATION FUND CREATED IN SECTION 8-77-101 (1)
11 (a), C.R.S.

12 **SECTION 4. Appropriation.** In addition to any other
13 appropriation, there is hereby appropriated, to the department of revenue,
14 for allocation to the reserve created in section 39-22-622 (1), Colorado
15 Revised Statutes, for the fiscal year beginning July 1, 2008, the sum of
16 forty-seven million two hundred seventy-one thousand dollars
17 (\$47,271,000), or so much thereof as may be necessary, for payment of
18 refunds to taxpayers who claim the credit allowed by section 39-22-123,
19 Colorado Revised Statutes. Said sum shall be from federal Temporary
20 Assistance for Needy Families block grant funds.

21 **SECTION 5. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, and safety.