

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

PREAMENDED

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

LLS NO. 01-0213.01 Jason Gelender

HOUSE BILL 01-1058

HOUSE SPONSORSHIP

Hefley,

SENATE SPONSORSHIP

Evans, and Linkhart

House Committees

Finance

Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE STATE EARNED INCOME TAX CREDIT, AND, IN**
102 **CONNECTION THEREWITH, ALLOWING THE CREDIT FOR ANY**
103 **INCOME TAX YEAR COMMENCING ON OR AFTER JANUARY 1,**
104 **2004.**

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 state earned income tax credit that presently exists only as a taxpayer's bill of rights refund mechanism to be claimed for any income tax year commencing on or after January 1, 2001.

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.*

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

2 **SECTION 1.** 39-22-123, Colorado Revised Statutes, is amended
3 to read:

4 **39-22-123. Earned income tax credit - refund of state excess**
5 **revenues for fiscal years commencing on or after July 1, 1998 - repeal.**

6 (1) (a) (I) Subject to the provisions of subsection (4) of this section, for
7 the income tax year commencing on January 1, 1999, and ending
8 December 31, 1999, if, based on the financial report prepared by the
9 controller in accordance with section 24-77-106.5, C.R.S., the controller
10 certifies that the amount of state revenues for the state fiscal year ending
11 on June 30, 1999, exceeds the limitation on state fiscal year spending
12 imposed by section 20 (7) (a) of article X of the state constitution and the
13 voters statewide either have not authorized the state to retain and spend
14 all of the excess state revenues or have authorized the state to retain and
15 spend only a portion of the excess state revenues for that fiscal year, a
16 resident individual or part-year resident individual who claims an earned
17 income tax credit on the individual's federal tax return shall be allowed an
18 earned income tax credit against the taxes due on the individual's income
19 under this article. The amount of the credit shall be an amount equal to
20 eight and one-half percent of the amount of the federal credit claimed on
21 the resident individual's federal tax return or, in the case of a part-year
22 resident individual, such amount as shall reflect eight and one-half percent
23 of the federal earned income credit earned while a resident of Colorado.

24 (II) This paragraph (a) is repealed, effective January 1, 2005.

25 (b) (I) Subject to the provisions of subsection (4) of this section,
26 for any income tax year commencing on or after January 1, 2000, BUT
27 BEFORE JANUARY 1, 2004, if, based on the financial report prepared by the

1 controller in accordance with section 24-77-106.5, C.R.S., the controller
2 certifies that the amount of state revenues for the state fiscal year ending
3 in that income tax year exceeds the limitation on state fiscal year spending
4 imposed by section 20 (7) (a) of article X of the state constitution and the
5 voters statewide either have not authorized the state to retain and spend
6 all of the excess state revenues or have authorized the state to retain and
7 spend only a portion of the excess state revenues for that fiscal year, a
8 resident individual or part-year resident individual who claims an earned
9 income tax credit on the individual's federal tax return shall be allowed an
10 earned income tax credit against the taxes due on the individual's income
11 under this article. The amount of the credit shall be an amount equal to
12 ten percent of the amount of the federal credit claimed on the resident
13 individual's federal tax return or, in the case of a part-year resident
14 individual, such amount as shall reflect ten percent of the federal earned
15 income credit earned while a resident of Colorado.

16 (II) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JANUARY 1,
17 2008.

18 (1.5) FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER
19 JANUARY 1, 2004, A RESIDENT INDIVIDUAL OR PART-YEAR RESIDENT
20 INDIVIDUAL WHO CLAIMS AN EARNED INCOME TAX CREDIT ON THE
21 INDIVIDUAL'S FEDERAL TAX RETURN SHALL BE ALLOWED AN EARNED
22 INCOME TAX CREDIT AGAINST THE TAXES DUE ON THE INDIVIDUAL'S INCOME
23 UNDER THIS ARTICLE. THE AMOUNT OF THE CREDIT SHALL BE AN AMOUNT
24 EQUAL TO TEN PERCENT OF THE AMOUNT OF THE FEDERAL CREDIT CLAIMED
25 ON THE RESIDENT INDIVIDUAL'S FEDERAL TAX RETURN OR, IN THE CASE OF
26 A PART-YEAR RESIDENT INDIVIDUAL, SUCH AMOUNT AS SHALL REFLECT TEN
27 PERCENT OF THE FEDERAL CREDIT EARNED WHILE A RESIDENT OF

1 COLORADO.

2 (2) If ~~the~~ A credit allowed under ~~subsection (1)~~ of this section
3 exceeds the income taxes due on the resident OR PART-YEAR RESIDENT
4 individual's income, the amount of the credit not used to offset income
5 taxes shall not be carried forward as tax credits against the resident
6 individual's subsequent years' income tax liability and shall be refunded
7 to the individual.

8 (3) (a) Any earned income tax credit allowed for any given taxable
9 year pursuant to SUBSECTION (1) OF this section shall be published in rules
10 promulgated by the executive director of the department of revenue in
11 accordance with article 4 of title 24, C.R.S., and shall be included in
12 income tax forms for that taxable year.

13 (b) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JANUARY 1,
14 2008.

15 (3.5) Any earned income tax credit allowed to any person pursuant
16 to ~~subsection (1)~~ of this section shall not be considered as income or
17 resources for the purpose of determining eligibility or for the payment of
18 public assistance benefits and medical assistance benefits authorized
19 under state law or for payments made under any other publicly funded
20 programs.

21 (4) (a) If, based on the financial report prepared by the controller
22 in accordance with section 24-77-106.5, C.R.S., the controller certifies
23 that the amount of state revenues for the state fiscal year commencing on
24 July 1, 1998, exceeds the limitation on state fiscal year spending imposed
25 by section 20 (7) (a) of article X of the state constitution for that fiscal
26 year by less than fifty million dollars, then the credit authorized by
27 subsection (1) of this section shall not be allowed for the income tax year

1 commencing on January 1, 1999.

2 (b) If, based on the financial report prepared by the controller in
3 accordance with section 24-77-106.5, C.R.S., the controller certifies that
4 the amount of state revenues for any state fiscal year commencing on or
5 after July 1, 1999, BUT BEFORE JULY 1, 2003, exceeds the limitation on
6 state fiscal year spending imposed by section 20 (7) (a) of article X of the
7 state constitution for that fiscal year by less than fifty million dollars, as
8 adjusted pursuant to paragraph (c) of this subsection (4), then the credit
9 authorized by subsection (1) of this section shall not be allowed for the
10 income tax year in which said state fiscal year ended.

11 (c) (I) No later than October 1 of any given calendar year
12 commencing on or after January 1, 2000, BUT BEFORE JANUARY 1, 2004,
13 the executive director of the department of revenue shall annually adjust
14 the dollar amount specified in paragraph (b) of this subsection (4) to
15 reflect the rate of growth of Colorado personal income for the
16 calendar year immediately preceding the calendar year in which such
17 adjustment is made. For purposes of this subparagraph (I), "the rate of
18 growth of Colorado personal income" means the percentage change
19 between the most recent published annual estimate of total personal
20 income for Colorado, as defined and officially reported by the bureau of
21 economic analysis in the United States department of commerce for the
22 calendar year immediately preceding the calendar year in which the
23 adjustment is made and the most recent published annual estimate of total
24 personal income for Colorado, as defined and officially reported by the
25 bureau of economic analysis in the United States department of commerce
26 for the calendar year prior to the calendar year immediately preceding the
27 calendar year in which the adjustment is made.

1 (II) Upon calculating the adjustment of said dollar amount in
2 accordance with subparagraph (I) of this paragraph (c), the executive
3 director shall notify in writing the executive committee of the legislative
4 council created pursuant to section 2-3-301 (1), C.R.S., of the adjusted
5 dollar amount and the basis for the adjustment. Such written notification
6 shall be given within five working days after such calculation is
7 completed, but such written notification shall be given no later than
8 October 1 of the calendar year.

9 (III) It is the function of the executive committee to review and
10 approve or disapprove such adjustment of said dollar amount within
11 twenty days after receipt of such written notification from the executive
12 director. Any adjustment that is not approved or disapproved by the
13 executive committee within said twenty days shall be automatically
14 approved; except that, if within said twenty days the executive committee
15 schedules a hearing on such adjustment, such automatic approval shall not
16 occur unless the executive committee does not approve or disapprove such
17 adjustment after the conclusion of such hearing. Any hearing conducted
18 by the executive committee pursuant to this subparagraph (III) shall be
19 concluded no later than twenty-five days after receipt of such written
20 notification from the executive director.

21 (IV) (A) If the executive committee disapproves any adjustment
22 of said dollar amount calculated by the executive director pursuant to this
23 paragraph (c), the executive committee shall specify such adjusted dollar
24 amount to be utilized by the executive director. Any adjusted dollar
25 amount specified by the executive committee pursuant to this
26 sub-subparagraph (A) shall be calculated in accordance with the
27 provisions of this paragraph (c).

1 (B) For the purpose of determining whether the credit authorized
2 by PARAGRAPH (b) OF subsection (1) of this section is to be allowed for
3 any given income tax year, the executive director shall not utilize any
4 adjusted dollar amount that has not been approved pursuant to
5 subparagraph (III) of this paragraph (c) or otherwise specified pursuant to
6 sub-subparagraph (A) of this subparagraph (IV).

7 (V) If one or more ballot questions are submitted to the voters at
8 a statewide election to be held in November of any calendar year
9 commencing on or after January 1, 1999, that seek authorization for the
10 state to retain and spend all or any portion of the amount of excess state
11 revenues for the state fiscal year ending during said calendar year, the
12 executive director shall not determine whether the credit authorized by
13 subsection (1) of this section shall be allowed and shall not promulgate
14 rules containing said credit until the impact of the results of said election
15 on the amount of the excess state revenues to be refunded is ascertained.

16 (d) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JANUARY 1,
17 2008.

18 (5) (a) The general assembly finds and declares that ~~an~~ THE earned
19 income tax credit AUTHORIZED BY SUBSECTION (1) OF THIS SECTION is a
20 reasonable method of refunding a portion of the EXCESS state ~~excess~~
21 revenues required to be refunded in accordance with section 20 (7) (d) of
22 article X of the state constitution.

23 (b) THIS SUBSECTION (5) IS REPEALED, EFFECTIVE JANUARY 1,
24 2008.

25 **SECTION 2. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, and safety.