

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

INTRODUCED

LLS NO. 01-0270.01 John Hershey

HOUSE BILL 01-1178

HOUSE SPONSORSHIP

Webster

SENATE SPONSORSHIP

(None)

House Committees

Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE REFUNDING OF STATE REVENUES IN EXCESS OF THE**
102 **CONSTITUTIONAL LIMITATION ON STATE FISCAL YEAR SPENDING**
103 **TO CERTAIN CHILD CARE CENTERS FOR PROPERTY TAXES PAID.**

Bill Summary

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

Creates a mechanism to refund a portion of state revenues in excess of constitutional limitations to certain child care centers, if state revenues exceed the limitations by a specified amount, which amount will be adjusted annually for changes in the rate of growth in personal income inflation. Permits child care centers that are not based in residences to claim a refund of the amount by which the real property taxes paid exceeds the amount that would have been paid if the property had been

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.

taxed at the residential rate.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) The burden of real property taxation imposed upon licensed
5 child care facilities is unequal and inequitable. Licensed child care
6 providers may be governmental entities, nonprofit entities,
7 residential-based entities, or nonresidential-based entities. All of these
8 child care providers, except the nonresidential-based entities, benefit from
9 special property tax considerations. Colorado property tax law places an
10 extraordinarily high property tax burden on one class of licensed child
11 care providers while granting favorable property tax treatment to all other
12 classes of providers.

13 (b) The structural inequity in property tax treatment is exacerbated
14 by the unintended effects of section 3 of article X of the state constitution,
15 known as the "Gallagher amendment", under which the constitutional
16 protection granted to residential property taxpayers has increased the tax
17 burden on business property, including the property of nonresidential
18 licensed child care entities.

19 (c) The real property taxes payable by licensed child care
20 providers increase when they make capital improvements to protect the
21 health and safety of the children in their care. This policy further
22 exacerbates the inequitable property tax treatment of nonresidential
23 licensed child care providers.

24 (d) Nonresidential licensed child care providers commonly pay
25 property taxes directly to governmental entities that compete with them

1 in the provision of child care services.

2 (e) Nonresidential licensed child care providers contribute to
3 excess state revenues by paying various state taxes, therefore it is
4 reasonable to address their inequitable property tax treatment by refunding
5 to them a portion of excess state revenues.

6 (f) The inequitable tax treatment of nonresidential licensed child
7 care providers can be mitigated by dedicating a portion of the excess state
8 revenues to a refund of the amount of real property taxes paid by
9 nonresidential licensed child care providers that exceeds the amount they
10 would have paid if the tax were calculated using the assessed valuation
11 ratio for residential property.

12 **SECTION 2.** Article 1 of title 39, Colorado Revised Statutes, is
13 amended BY THE ADDITION OF A NEW SECTION to read:

14 **39-1-122. Refund for certain child care centers.** (1) AS USED
15 IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

16 (a) "CHILD CARE CENTER" HAS THE MEANING GIVEN TO THAT TERM
17 IN SECTION 26-6-102, C.R.S.

18 (b) "ELIGIBLE TAXPAYER" MEANS AN OWNER OF REAL PROPERTY
19 USED PRIMARILY FOR THE OPERATION OF A LICENSED CHILD CARE CENTER
20 WHO DURING THE TAX YEAR FOR WHICH THE REFUND IS CLAIMED:

21 (I) OPERATED A LICENSED CHILD CARE CENTER FOR NO LESS THAN
22 ONE HUNDRED EIGHTY DAYS, INCLUDING ANY TIME DURING WHICH THE
23 CHILD CARE CENTER HELD A PROVISIONAL LICENSE BUT EXCLUDING ANY
24 TIME DURING WHICH THE CHILD CARE CENTER'S LICENSE WAS SUSPENDED
25 OR PROBATIONARY; AND

26 (II) PAID PROPERTY TAXES ON THE REAL PROPERTY USED AS A
27 CHILD CARE CENTER WITH NO DELINQUENCY AS DESCRIBED IN SECTION

1 39-10-102.

2 (2) IN ANY STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1,
3 2001, EACH ELIGIBLE TAXPAYER IS ENTITLED TO A REFUND OF EXCESS
4 STATE SALES TAX REVENUES IN THE AMOUNT SPECIFIED IN SUBSECTION (3)
5 OF THIS SECTION IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE
6 CONTROLLER IN THAT STATE FISCAL YEAR IN ACCORDANCE WITH SECTION
7 24-77-106.5, C.R.S., THE CONTROLLER CERTIFIES THAT THE AMOUNT OF
8 STATE REVENUES FOR THE IMMEDIATELY PRECEDING STATE FISCAL YEAR
9 ACTUALLY EXCEEDED THE LIMITATION ON STATE FISCAL YEAR SPENDING
10 IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION
11 BY _____ DOLLARS OR MORE AS ADJUSTED PURSUANT TO
12 SUBSECTION (6) OF THIS SECTION.

13 (3) THE AMOUNT OF THE REFUND ALLOWED UNDER THIS SECTION
14 TO ANY ELIGIBLE TAXPAYER IN ANY STATE FISCAL YEAR SHALL BE AN
15 AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE AMOUNT OF REAL
16 PROPERTY TAX THE TAXPAYER ACTUALLY PAID ON THE PROPERTY TO ANY
17 TAXING JURISDICTION IN THE PRECEEDING STATE FISCAL YEAR AND THE
18 AMOUNT OF REAL PROPERTY TAX THAT WOULD HAVE BEEN PAYABLE IF THE
19 CHILD CARE CENTER HAD BEEN VALUED FOR ASSESSMENT BY APPLYING TO
20 THE ACTUAL VALUE OF THE PROPERTY THE RATIO OF VALUATION FOR
21 RESIDENTIAL REAL PROPERTY. NOTHING IN THIS SECTION SHALL BE
22 CONSTRUED TO REQUIRE OR PERMIT ANY CHANGE IN THE CLASSIFICATION
23 OR VALUATION OF ANY PROPERTY FOR PROPERTY TAX PURPOSES.

24 (4) AN ELIGIBLE TAXPAYER MAY CLAIM THE REFUND ESTABLISHED
25 IN THIS SECTION BY FILING AN APPLICATION, TAX STATEMENT, AND PROOF
26 OF PAYMENT OF REAL PROPERTY TAXES IN THE STATE FISCAL YEAR FOR
27 WHICH THE REFUND IS CLAIMED WITH THE EXECUTIVE DIRECTOR OF THE

1 DEPARTMENT OF REVENUE IN THE MANNER PRESCRIBED BY THE
2 DEPARTMENT.

3 (5) THE DEPARTMENT OF REVENUE SHALL REFUND THE AMOUNT
4 ALLOWED UNDER THIS SECTION TO EACH QUALIFIED TAXPAYER USING
5 MONEYS IN THE RESERVED ESTABLISHED PURSUANT TO SECTION 39-22-622.

6 (6) (a) NO LATER THAN OCTOBER 1 OF ANY GIVEN CALENDAR YEAR
7 COMMENCING ON OR AFTER JANUARY 1, 2002, THE EXECUTIVE DIRECTOR
8 OF THE DEPARTMENT OF REVENUE SHALL ANNUALLY ADJUST THE DOLLAR
9 AMOUNT SPECIFIED IN SUBSECTION (2) OF THIS SECTION TO REFLECT THE
10 RATE OF GROWTH OF COLORADO PERSONAL INCOME FOR THE CALENDAR
11 YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH SUCH
12 ADJUSTMENT IS MADE. FOR PURPOSES OF THIS PARAGRAPH (a), "THE RATE
13 OF GROWTH OF COLORADO PERSONAL INCOME" MEANS THE PERCENTAGE
14 CHANGE BETWEEN THE MOST RECENT PUBLISHED ANNUAL ESTIMATE OF
15 TOTAL PERSONAL INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY
16 REPORTED BY THE BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES
17 DEPARTMENT OF COMMERCE FOR THE CALENDAR YEAR IMMEDIATELY
18 PRECEDING THE CALENDAR YEAR IN WHICH THE ADJUSTMENT IS MADE AND
19 THE MOST RECENT PUBLISHED ANNUAL ESTIMATE OF TOTAL PERSONAL
20 INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY REPORTED BY THE
21 BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES DEPARTMENT OF
22 COMMERCE FOR THE CALENDAR YEAR PRIOR TO THE CALENDAR YEAR
23 IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH THE ADJUSTMENT
24 IS MADE.

25 (b) UPON CALCULATING THE ADJUSTMENT OF SAID DOLLAR
26 AMOUNT IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (6),
27 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL NOTIFY

1 IN WRITING THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL
2 CREATED PURSUANT TO SECTION 2-3-301 (1), C.R.S., OF THE ADJUSTED
3 DOLLAR AMOUNT AND THE BASIS FOR THE ADJUSTMENT. SUCH WRITTEN
4 NOTIFICATION SHALL BE GIVEN WITHIN FIVE WORKING DAYS AFTER SUCH
5 CALCULATION IS COMPLETED, BUT SUCH WRITTEN NOTIFICATION SHALL BE
6 GIVEN NO LATER THAN OCTOBER 1 OF THE CALENDAR YEAR.

7 (c) IT IS THE FUNCTION OF THE EXECUTIVE COMMITTEE OF THE
8 LEGISLATIVE COUNCIL TO REVIEW AND APPROVE OR DISAPPROVE SUCH
9 ADJUSTMENT OF THE DOLLAR AMOUNT WITHIN TWENTY DAYS AFTER
10 RECEIPT OF THE WRITTEN NOTIFICATION FROM THE EXECUTIVE DIRECTOR
11 OF THE DEPARTMENT OF REVENUE. ANY ADJUSTMENT THAT IS NOT
12 APPROVED OR DISAPPROVED BY THE EXECUTIVE COMMITTEE WITHIN SAID
13 TWENTY DAYS IS AUTOMATICALLY APPROVED; EXCEPT THAT, IF WITHIN
14 SAID TWENTY DAYS THE EXECUTIVE COMMITTEE SCHEDULES A HEARING ON
15 THE ADJUSTMENT, THE AUTOMATIC APPROVAL SHALL NOT OCCUR UNLESS
16 THE EXECUTIVE COMMITTEE DOES NOT APPROVE OR DISAPPROVE THE
17 ADJUSTMENT AT THE CONCLUSION OF THE HEARING. ANY HEARING
18 CONDUCTED BY THE EXECUTIVE COMMITTEE PURSUANT TO THIS
19 PARAGRAPH (c) SHALL BE CONCLUDED NO LATER THAN TWENTY-FIVE DAYS
20 AFTER RECEIPT OF THE WRITTEN NOTIFICATION FROM THE EXECUTIVE
21 DIRECTOR.

22 (d) (I) IF THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL
23 DISAPPROVES ANY ADJUSTMENT OF THE DOLLAR AMOUNT CALCULATED BY
24 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE PURSUANT TO
25 THIS SUBSECTION (6), THE EXECUTIVE COMMITTEE SHALL SPECIFY THE
26 ADJUSTED DOLLAR AMOUNT TO BE UTILIZED BY THE EXECUTIVE DIRECTOR.
27 ANY ADJUSTED DOLLAR AMOUNT SPECIFIED BY THE EXECUTIVE COMMITTEE

1 PURSUANT TO THIS SUBPARAGRAPH (I) SHALL BE CALCULATED IN
2 ACCORDANCE WITH THE PROVISIONS OF THIS SUBSECTION (6).

3 (II) FOR THE PURPOSE OF DETERMINING WHETHER THE REFUND
4 AUTHORIZED BY SUBSECTION (2) OF THIS SECTION IS TO BE ALLOWED IN
5 ANY GIVEN STATE FISCAL YEAR, THE EXECUTIVE DIRECTOR OF THE
6 DEPARTMENT OF REVENUE SHALL NOT UTILIZE ANY ADJUSTED DOLLAR
7 AMOUNT THAT HAS NOT BEEN APPROVED PURSUANT TO PARAGRAPH (c) OF
8 THIS SUBSECTION (6) OR OTHERWISE SPECIFIED PURSUANT TO
9 SUBPARAGRAPH (I) OF THIS PARAGRAPH (d).

10 (e) IF ONE OR MORE BALLOT QUESTIONS ARE SUBMITTED TO THE
11 VOTERS AT A STATEWIDE ELECTION TO BE HELD IN NOVEMBER OF ANY
12 CALENDAR YEAR COMMENCING ON OR AFTER JANUARY 1, 2001, THAT SEEK
13 AUTHORIZATION FOR THE STATE TO RETAIN AND SPEND ALL OR ANY
14 PORTION OF THE EXCESS STATE REVENUES FOR THE STATE FISCAL YEAR
15 ENDING DURING THAT CALENDAR YEAR, THE EXECUTIVE DIRECTOR OF THE
16 DEPARTMENT OF REVENUE SHALL NOT DETERMINE WHETHER THE REFUND
17 AUTHORIZED BY SUBSECTION (2) OF THIS SECTION SHALL BE ALLOWED AND
18 SHALL NOT PROMULGATE RULES CONTAINING THE ALLOWANCE OF THE
19 REFUND UNTIL THE IMPACT OF THE RESULTS OF THE ELECTION ON THE
20 AMOUNT OF THE EXCESS STATE REVENUES TO BE REFUNDED IS
21 ASCERTAINED.

22 (7) ANY REFUND ALLOWED FOR ANY GIVEN STATE FISCAL YEAR
23 PURSUANT TO THIS SECTION SHALL BE PUBLISHED IN RULES PROMULGATED
24 BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE IN
25 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.

26 (8) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT
27 REFUNDING TO NONRESIDENTIAL LICENSED CHILD CARE PROVIDERS THE

1 PORTION OF REAL PROPERTY TAX PAID IN EXCESS OF THE AMOUNT THEY
2 WOULD HAVE PAID IF TAXED AT THE RESIDENTIAL RATE IS A REASONABLE
3 METHOD OF REFUNDING A PORTION OF THE EXCESS STATE REVENUES
4 REQUIRED TO BE REFUNDED IN ACCORDANCE WITH SECTION 20 (7) (d) OF
5 ARTICLE X OF THE STATE CONSTITUTION.

6 **SECTION 3. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, and safety.