

First Regular Session
Sixty-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 01-0180.01 Jery Payne

HOUSE BILL 01-1248

HOUSE SPONSORSHIP

Swenson

SENATE SPONSORSHIP

(None)

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES THAT WILL ENCOURAGE EMPLOYERS TO
102 ENABLE THEIR EMPLOYEES TO TELECOMMUTE, AND, IN
103 CONNECTION THEREWITH, CREATING A TAX CREDIT IN YEARS
104 WHEN THERE ARE EXCESS STATE REVENUES THAT ARE REQUIRED
105 TO BE REFUNDED BY SECTION 20 OF ARTICLE X OF THE STATE
106 CONSTITUTION.

Bill Summary

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

For income tax years commencing on or after January 1, 2002, allows a taxpayer that employs fewer than 50 people an income tax credit

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.

of 50% for expenditures that do not exceed \$250 per telecommuter that enable such taxpayer's employees to telecommute in years when there are excess state revenues that are required to be refunded. Requires that the credit shall not be carried forward, but shall be refunded to the taxpayer. Specifies that a partnership, S corporation, or other similar pass-through entity that is eligible for such credit shall allocate the credit to the entity's partners or shareholders in proportion to the partners' or shareholders' distributive shares of income from such entity. Requires the executive director of the department of revenue to publish the credit in rules and include the credit in the income tax forms for that taxable year.

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

2 **SECTION 1.** Part 5 of article 22 of title 39, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

4 **39-22-527. Credit against tax - telecommuting program.**

5 (1) (a) FOR PURPOSES OF THIS SECTION, "TAXPAYER" MEANS A RESIDENT
6 INDIVIDUAL OR A CORPORATION THAT OWNS OR OPERATES A BUSINESS FOR
7 PROFIT EITHER PERSONALLY OR THROUGH A PARTNERSHIP.

8 (b) FOR THE PURPOSES OF THIS SECTION, "TELECOMMUTE" MEANS
9 THE ACT OF PERFORMING SERVICES FOR AN EMPLOYER IN RETURN FOR
10 PAYMENT UNDER CONDITIONS THAT REDUCE OR ELIMINATE THE DISTANCE
11 THE EMPLOYEE MUST TRAVEL FROM THE EMPLOYEE'S RESIDENCE IN ORDER
12 TO PERFORM SUCH SERVICES.

13 (2) (a) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, FOR
14 INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2002, IF,
15 BASED ON THE FINANCIAL REPORT PREPARED BY THE CONTROLLER IN
16 ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE CONTROLLER
17 CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR THE STATE FISCAL
18 YEAR ENDING IN THAT INCOME TAX YEAR EXCEEDS THE LIMITATION ON
19 STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE
20 X OF THE STATE CONSTITUTION, AND THE VOTERS STATEWIDE EITHER HAVE

1 NOT AUTHORIZED THE STATE TO RETAIN AND SPEND ALL OF THE EXCESS
2 STATE REVENUES OR HAVE AUTHORIZED THE STATE TO RETAIN AND SPEND
3 ONLY A PORTION OF THE EXCESS STATE REVENUES FOR THAT FISCAL YEAR,
4 THERE SHALL BE ALLOWED TO ANY TAXPAYER THAT EMPLOYS FEWER THAN
5 FIFTY NATURAL PERSONS AS A CREDIT AGAINST THE TAX IMPOSED BY THIS
6 ARTICLE AN AMOUNT EQUAL TO FIFTY PERCENT OF THE TOTAL MONEYS
7 SPENT BY THE TAXPAYER ON GOODS, EQUIPMENT, OR SERVICES USED TO
8 ENABLE AN EMPLOYEE TO TELECOMMUTE DURING THE INCOME TAX YEAR.
9 SUCH CREDIT SHALL NOT EXCEED TWO HUNDRED FIFTY DOLLARS PER
10 TELECOMMUTING EMPLOYEE

11 (b) IF THE CREDIT ALLOWED UNDER THIS SUBSECTION (2) EXCEEDS
12 THE INCOME TAXES DUE ON THE RESIDENT INDIVIDUAL'S INCOME, THE
13 AMOUNT OF THE CREDIT NOT USED TO OFFSET INCOME TAXES SHALL NOT BE
14 CARRIED FORWARD AS TAX CREDITS AGAINST THE RESIDENT INDIVIDUAL'S
15 SUBSEQUENT YEARS' INCOME TAX LIABILITY AND SHALL BE REFUNDED TO
16 THE INDIVIDUAL.

17 (3) IN THE CASE OF A PARTNERSHIP, S CORPORATION, OR OTHER
18 SIMILAR PASS-THROUGH ENTITY THAT SPENDS MONEYS ENABLING ITS
19 EMPLOYEES TO TELECOMMUTE, THE AMOUNT OF THE CREDIT ALLOWED
20 PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BE ALLOCATED TO
21 THE ENTITY'S PARTNERS OR SHAREHOLDERS IN PROPORTION TO THE
22 PARTNERS' OR SHAREHOLDERS' DISTRIBUTIVE SHARES OF INCOME FROM
23 SUCH ENTITY.

24 (4) (a) IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE
25 CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE
26 CONTROLLER CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR ANY
27 STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2001, EXCEEDS

1 THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20
2 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION FOR THAT FISCAL YEAR
3 BY LESS THAN ____, AS ADJUSTED PURSUANT TO PARAGRAPH (b) OF THIS
4 SUBSECTION (4), THEN THE CREDIT AUTHORIZED BY SUBSECTION (1) OF THIS
5 SECTION SHALL NOT BE ALLOWED FOR THE INCOME TAX YEAR IN WHICH
6 SAID STATE FISCAL YEAR ENDED.

7 (b) (I) NO LATER THAN OCTOBER 1 OF ANY GIVEN CALENDAR YEAR
8 COMMENCING ON OR AFTER JANUARY 1, 2003, THE EXECUTIVE DIRECTOR
9 SHALL ANNUALLY ADJUST THE DOLLAR AMOUNT SPECIFIED IN PARAGRAPH
10 (a) OF THIS SUBSECTION (4) TO REFLECT THE RATE OF GROWTH OF
11 COLORADO PERSONAL INCOME FOR THE CALENDAR YEAR IMMEDIATELY
12 PRECEDING THE CALENDAR YEAR IN WHICH SUCH ADJUSTMENT IS MADE.
13 FOR PURPOSES OF THIS SUBPARAGRAPH (I), "THE RATE OF GROWTH OF
14 COLORADO PERSONAL INCOME" MEANS THE PERCENTAGE CHANGE
15 BETWEEN THE MOST RECENT PUBLISHED ANNUAL ESTIMATE OF TOTAL
16 PERSONAL INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY
17 REPORTED BY THE BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES
18 DEPARTMENT OF COMMERCE FOR THE CALENDAR YEAR IMMEDIATELY
19 PRECEDING THE CALENDAR YEAR IN WHICH THE ADJUSTMENT IS MADE AND
20 THE MOST RECENT PUBLISHED ANNUAL ESTIMATE OF TOTAL PERSONAL
21 INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY REPORTED BY THE
22 BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES DEPARTMENT OF
23 COMMERCE FOR THE CALENDAR YEAR PRIOR TO THE CALENDAR YEAR
24 IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH THE ADJUSTMENT
25 IS MADE.

26 (II) UPON CALCULATING THE ADJUSTMENT OF SAID DOLLAR
27 AMOUNT IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH (b),

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

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

22 (IV) (A) IF THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE
23 COUNCIL DISAPPROVES ANY ADJUSTMENT OF SAID DOLLAR AMOUNT
24 CALCULATED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PARAGRAPH
25 (b), THE EXECUTIVE COMMITTEE SHALL SPECIFY SUCH ADJUSTED DOLLAR
26 AMOUNT TO BE UTILIZED BY THE EXECUTIVE DIRECTOR. ANY ADJUSTED
27 DOLLAR AMOUNT SPECIFIED BY THE EXECUTIVE COMMITTEE PURSUANT TO

1 THIS SUB-SUBPARAGRAPH (A) SHALL BE CALCULATED IN ACCORDANCE
2 WITH THE PROVISIONS OF THIS PARAGRAPH (b).

3 (B) FOR THE PURPOSE OF DETERMINING WHETHER THE CREDIT
4 AUTHORIZED BY SUBSECTION (2) OF THIS SECTION IS TO BE ALLOWED FOR
5 ANY GIVEN INCOME TAX YEAR, THE EXECUTIVE DIRECTOR SHALL NOT
6 UTILIZE ANY ADJUSTED DOLLAR AMOUNT THAT HAS NOT BEEN APPROVED
7 PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH (b) OR OTHERWISE
8 SPECIFIED PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH
9 (IV).

10 (V) 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, 2002, THAT SEEK
13 AUTHORIZATION FOR THE STATE TO RETAIN AND SPEND ALL OR ANY
14 PORTION OF THE AMOUNT OF EXCESS STATE REVENUES FOR THE STATE
15 FISCAL YEAR ENDING DURING SAID CALENDAR YEAR, THE EXECUTIVE
16 DIRECTOR SHALL NOT DETERMINE WHETHER THE CREDIT AUTHORIZED BY
17 SUBSECTION (2) OF THIS SECTION SHALL BE ALLOWED AND SHALL NOT
18 PROMULGATE RULES CONTAINING SAID CREDIT UNTIL THE IMPACT OF THE
19 RESULTS OF SAID ELECTION ON THE AMOUNT OF THE EXCESS STATE
20 REVENUES TO BE REFUNDED IS ASCERTAINED.

21 (5) ANY CREDIT ALLOWED FOR ANY GIVEN TAXABLE YEAR
22 PURSUANT TO THIS SECTION SHALL BE PUBLISHED IN RULES PROMULGATED
23 BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE IN
24 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AND SHALL BE
25 INCLUDED IN INCOME TAX FORMS FOR THAT TAXABLE YEAR.

26 (6) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT AN
27 INCOME TAX CREDIT FOR MONEYS SPENT ENABLING ITS EMPLOYEES TO

1 TELECOMMUTE DURING THE INCOME TAX YEAR IS A REASONABLE METHOD
2 OF REFUNDING A PORTION OF THE EXCESS STATE REVENUES REQUIRED TO
3 BE REFUNDED IN ACCORDANCE WITH SECTION 20 (7) (d) OF ARTICLE X OF
4 THE STATE CONSTITUTION.

5 **SECTION 2. Effective date - applicability.** (1) This act shall
6 take effect August 15, 2001, unless a referendum petition is filed during
7 the ninety-day period after final adjournment of the general assembly that
8 is allowed for submitting a referendum petition pursuant to article V,
9 section 1 (3) of the state constitution. If such a referendum petition is
10 filed against this act or an item, section, or part of this act within such
11 period, then the act, item, section, or part, if approved by the people, shall
12 take effect on the date of the official declaration of the vote thereon by
13 proclamation of the governor.

14 (2) The provisions of this act shall apply to taxes due on or after
15 the applicable effective date of this act.