

## CHAPTER 177

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**TAXATION**

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**HOUSE BILL 00-1063**

BY REPRESENTATIVES Young, Alexander, Clapp, Clarke, Coleman, Fairbank, Gagliardi, Hagedorn, Hoppe, Kaufman, Keller, Kester, Lawrence, Leyba, Mace, Miller, Mitchell, Morrison, Plant, Saliman, Scott, Spence, Spradley, Tapia, Tate, Taylor, Tochtrop, S. Williams, Windels, and Zimmerman;  
also SENATORS Sullivant, Blickensderfer, Chlouber, Dennis, Evans, Hernandez, Hillman, Martinez, Matsunaka, Musgrave, Owen, Pascoe, Phillips, Powers, Reeves, Rupert, Tanner, and Tebedo.

**AN ACT**

CONCERNING THE ESTABLISHMENT OF A CREDIT AGAINST THE COLORADO INCOME TAX FOR HEALTH CARE PROFESSIONALS PRACTICING IN HEALTH CARE PROFESSIONAL SHORTAGE AREAS.

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

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

**39-22-126. Credit for health care professionals practicing in rural health care professional shortage areas - legislative declaration - definitions.**

(1) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT, IN ORDER FOR ALL GEOGRAPHIC AREAS OF COLORADO TO HAVE THE OPPORTUNITY FOR ECONOMIC DEVELOPMENT, IT IS VITAL THAT EXCELLENT HEALTH CARE BE AVAILABLE THROUGHOUT THE STATE. THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT PAYMENT OF STUDENT LOANS IS AN INCENTIVE USED BY RURAL COMMUNITIES AND HEALTH CARE INSTITUTIONS TO ATTRACT HEALTH CARE PROFESSIONALS TO PRACTICE. IT IS THEREFORE THE INTENT OF THE GENERAL ASSEMBLY TO PROVIDE A TAX CREDIT FOR THE PURPOSE OF PAYMENT OF STUDENT LOANS AS A FINANCIAL INCENTIVE TO ENCOURAGE HEALTH CARE PROFESSIONALS TO LOCATE IN MEDICALLY UNDER SERVED AREAS OF THE STATE OF COLORADO.

(b) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT CREATING AN INCOME TAX CREDIT FOR HEALTH CARE PROFESSIONALS PRACTICING IN HEALTH CARE PROFESSIONAL SHORTAGE AREAS IS A REASONABLE METHOD OF REFUNDING A PORTION OF THE EXCESS STATE REVENUES REQUIRED TO BE REFUNDED IN ACCORDANCE WITH SECTION 20 (7) (d) OF ARTICLE X OF THE STATE CONSTITUTION.

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "HEALTHCARE PROFESSIONAL" MEANS A PHYSICIAN, PHYSICIAN ASSISTANT, OR ADVANCED PRACTICE NURSE WHO IS LICENSED OR CERTIFIED AS SUCH UNDER THE LAWS OF THIS STATE.

(b) "RURAL HEALTH CARE PROFESSIONAL SHORTAGE AREA" MEANS:

(I) ANY AREA WITHIN A COUNTY, WHICH COUNTY IS NOT INCLUDED WITHIN COLORADO'S METROPOLITAN STATISTICAL AREA COUNTIES OF ADAMS, ARAPAHOE, BOULDER, DENVER, DOUGLAS, EL PASO, JEFFERSON, LARIMER, MESA, PUEBLO, AND WELD, AND IS LOCATED THIRTY OR MORE MILES FROM THE NEAREST HOSPITAL CONTAINING THIRTY OR MORE BEDS; OR

(II) ANY AREA WITHIN A COUNTY THAT IS INCLUDED WITHIN COLORADO'S METROPOLITAN STATISTICAL AREA COUNTIES AS ENUMERATED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) THAT IS LOCATED THIRTY OR MORE MILES FROM THE NEAREST HOSPITAL CONTAINING THIRTY OR MORE BEDS.

(c) "STUDENT LOAN" MEANS A STUDENT OBLIGATION NOTE OR OTHER DEBT OBLIGATION EVIDENCING A LOAN TO ANY PERSON FOR HIGHER EDUCATION PURPOSES OR FOR THE PURPOSE OF CONSOLIDATING OR REFINANCING A LOAN FOR HIGHER EDUCATION PURPOSES, WHICH IS EITHER A GUARANTEED STUDENT LOAN, AN EDUCATIONAL LOAN, OR A LOAN ELIGIBLE FOR CONSOLIDATION OR REFINANCING UNDER PART B OF TITLE IV OF THE FEDERAL "HIGHER EDUCATION ACT OF 1965", 20 U.S.C. SEC. 1001 ET SEQ., AS AMENDED.

(3) SUBJECT TO SUBSECTION (9) OF THIS SECTION, FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2000, BUT PRIOR TO JANUARY 1, 2005, IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE CONTROLLER CERTIFIES THAT THE AMOUNT OF EXCESS STATE REVENUES FOR THE STATE FISCAL YEAR ENDING IN THAT INCOME TAX YEAR EXCEEDS THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION AND THE VOTERS STATEWIDE EITHER HAVE NOT AUTHORIZED THE STATE TO RETAIN AND SPEND ALL OF THE EXCESS STATE REVENUES OR HAVE AUTHORIZED THE STATE TO RETAIN AND SPEND ONLY A PORTION OF THE EXCESS STATE REVENUES FOR THAT FISCAL YEAR, THERE SHALL BE ALLOWED TO EACH TAXPAYER A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE IN AN AMOUNT EQUAL TO ONE-THIRD OF THE AMOUNT OF THE STUDENT LOAN REFERENCED IN PARAGRAPH (d) OF SUBSECTION (4) OF THIS SECTION UP TO THE AMOUNT OF THE TAXPAYER'S ACTUAL INCOME TAX LIABILITY FOR THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED; EXCEPT THAT IN NO EVENT SHALL THE AGGREGATE AMOUNT OF THE CREDIT CLAIMED BY THE TAXPAYER FOR ALL INCOME TAX YEARS PURSUANT TO THIS SECTION EXCEED THE AMOUNT OF THE STUDENT LOAN REFERENCED IN PARAGRAPH (d) OF SUBSECTION (4) OF THIS SECTION.

(4) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE CREDIT CREATED BY THIS SECTION SHALL ONLY BE ALLOWED WHEN THE TAXPAYER:

(a) IS A HEALTH CARE PROFESSIONAL;

(b) HAS RESIDED AND PRACTICED IN A RURAL HEALTH CARE PROFESSIONAL SHORTAGE AREA FOR A PERIOD OF NOT LESS THAN ONE HUNDRED EIGHTY DAYS OF THE FIRST INCOME TAX YEAR FOR WHICH THE CREDIT IS CLAIMED;

(c) HAS COMMITTED TO RESIDING AND PRACTICING IN A RURAL HEALTH CARE PROFESSIONAL SHORTAGE AREA FOR AT LEAST THREE BUT UP TO FIVE YEARS PURSUANT TO CRITERIA ESTABLISHED IN RULES PROMULGATED BY THE STATE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT CREATED BY SECTION 24-1-119 (1), C.R.S., IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.; AND

(d) IS A BORROWER ON A STUDENT LOAN MADE TO HIM OR HER TO FINANCE HIGHER EDUCATION OPPORTUNITIES RESULTING IN A MEDICAL, PHYSICIAN ASSISTANT, OR NURSING DEGREE.

(5) THE CREDIT ALLOWED BY SUBSECTION (3) OF THIS SECTION MAY BE CLAIMED BY A TAXPAYER FOR EACH INCOME TAX YEAR AT THE END OF WHICH THE TAXPAYER IS, IN ADDITION TO SATISFYING THE OTHER REQUIREMENTS OF THIS SECTION, ALSO CURRENT IN HIS OR HER PAYMENTS ON THE STUDENT LOAN REFERENCED IN PARAGRAPH (d) OF SUBSECTION (4) OF THIS SECTION; EXCEPT THAT IN NO EVENT SHALL A TAXPAYER BE ALLOWED A CREDIT UNDER THIS SECTION FOR A PERIOD IN EXCESS OF FIVE INCOME TAX YEARS. THE CREDIT ALLOWED BY SUBSECTION (3) OF THIS SECTION SHALL ONLY BE ALLOWED FOR THE NUMBER OF INCOME TAX YEARS IN WHICH THE TAXPAYER WAS ACTUALLY RESIDING AND PRACTICING IN THE RURAL HEALTH CARE PROFESSIONAL SHORTAGE AREA CONSISTENT WITH THE TAXPAYER'S COMMITMENT TO RESIDE AND PRACTICE IN SUCH AREA IN CONFORMITY WITH SUBSECTION (4) OF THIS SECTION. WHEN THE TAXPAYER MAKES PAYMENT IN FULL UPON SAID LOAN IN LESS THAN FIVE YEARS, THE CREDIT SHALL NOT BE ALLOWED FOR ANY INCOME TAX YEAR AFTER THE TAX YEAR IN WHICH SAID LOAN HAS BEEN MARKED "PAID IN FULL" OR WORDS TO SIMILAR EFFECT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A TAXPAYER SHALL NOT BE ALLOWED TO CLAIM THE CREDIT CREATED BY THIS SECTION WHERE THE TAXPAYER HAS PAID OFF IN FULL THE STUDENT LOAN REFERENCED IN PARAGRAPH (d) OF SUBSECTION (4) OF THIS SECTION BY MEANS OF ANY OTHER LOAN REPAYMENT PROGRAM.

(6) TO QUALIFY FOR THE CREDIT PROVIDED BY THIS SECTION, THE TAXPAYER SHALL SUBMIT A CERTIFICATION FORM WITH EACH INCOME TAX RETURN. SUCH FORM SHALL BE OBTAINED FROM THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT. THE DEPARTMENT SHALL CERTIFY THAT THE TAXPAYER HAS SATISFIED THE REQUIREMENTS FOR ALLOWANCE OF THE CREDIT AS SPECIFIED IN SUBSECTIONS (3), (4), AND (5) OF THIS SECTION.

(7) ANY TAXPAYER WHO HAS CLAIMED THE CREDIT PROVIDED BY THIS SECTION AND WHO MOVES OUT OF A RURAL HEALTH CARE PROFESSIONAL SHORTAGE AREA DURING THE PERIOD THAT SUCH TAXPAYER WAS COMMITTED TO RESIDE AND PRACTICE IN SUCH AREA SHALL REPAY THE ENTIRE AMOUNT OF THE TOTAL CREDIT CLAIMED PURSUANT TO THIS SECTION FOR ALL YEARS FOR WHICH THE CREDIT WAS CLAIMED.

(8) IF THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THE PROVISIONS OF THIS SECTION EXCEEDS THE AMOUNT OF THE INCOME TAXES OTHERWISE DUE ON THE TAXPAYER'S INCOME IN THE INCOME TAX YEAR FOR WHICH THE CREDIT IS BEING CLAIMED, THE AMOUNT OF THE CREDIT NOT USED AS AN OFFSET AGAINST INCOME

TAXES IN SAID INCOME TAX YEAR SHALL NOT BE CARRIED FORWARD AND USED AS A CREDIT AGAINST THE TAXPAYER'S SUBSEQUENT YEARS' INCOME TAX LIABILITY AND SHALL BE REFUNDED TO THE INDIVIDUAL.

(9) IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE CONTROLLER CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR ANY STATE FISCAL YEAR COMMENCING ON OR AFTER JANUARY 1, 2000, BUT PRIOR TO JANUARY 1, 2005, EXCEEDS THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION FOR THAT FISCAL YEAR BY LESS THAN TWO HUNDRED EIGHTY-FIVE MILLION DOLLARS, AS ADJUSTED PURSUANT TO SUBSECTION (10) OF THIS SECTION, THEN THE STATE INCOME TAX CREDIT AUTHORIZED BY SUBSECTION (3) OF THIS SECTION SHALL NOT BE ALLOWED FOR THE INCOME TAX YEAR IN WHICH SAID STATE FISCAL YEAR ENDED.

(10) (a) NO LATER THAN OCTOBER 1 OF ANY GIVEN CALENDAR YEAR COMMENCING ON OR AFTER JANUARY 1, 2001, THE EXECUTIVE DIRECTOR SHALL ANNUALLY ADJUST THE DOLLAR AMOUNT SPECIFIED IN THIS SUBSECTION (10) TO REFLECT THE RATE OF GROWTH OF COLORADO PERSONAL INCOME FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH SUCH ADJUSTMENT IS MADE. FOR PURPOSES OF THIS PARAGRAPH (a), "THE RATE OF GROWTH OF COLORADO PERSONAL INCOME" MEANS THE PERCENTAGE CHANGE BETWEEN THE MOST RECENT PUBLISHED ANNUAL ESTIMATE OF TOTAL PERSONAL INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY REPORTED BY THE BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES DEPARTMENT OF COMMERCE FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH THE ADJUSTMENT IS MADE AND THE MOST RECENT PUBLISHED ANNUAL ESTIMATE OF TOTAL PERSONAL INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY REPORTED BY THE BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES DEPARTMENT OF COMMERCE FOR THE CALENDAR YEAR PRIOR TO THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH THE ADJUSTMENT IS MADE.

(b) UPON CALCULATING THE ADJUSTMENT OF SAID DOLLAR AMOUNT IN ACCORDANCE WITH PARAGRAPH (a) OF THIS SUBSECTION (10), THE EXECUTIVE DIRECTOR SHALL NOTIFY IN WRITING THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL CREATED PURSUANT TO SECTION 2-3-301 (1), C.R.S., OF THE ADJUSTED DOLLAR AMOUNT AND THE BASIS FOR THE ADJUSTMENT. SUCH WRITTEN NOTIFICATION SHALL BE GIVEN WITHIN FIVE WORKING DAYS AFTER SUCH CALCULATION IS COMPLETED, BUT SUCH WRITTEN NOTIFICATION SHALL BE GIVEN NO LATER THAN OCTOBER 1 OF THE CALENDAR YEAR.

(c) IT IS THE FUNCTION OF THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL TO REVIEW AND APPROVE OR DISAPPROVE SUCH ADJUSTMENT OF SAID DOLLAR AMOUNT WITHIN TWENTY DAYS AFTER RECEIPT OF SUCH WRITTEN NOTIFICATION FROM THE EXECUTIVE DIRECTOR. ANY ADJUSTMENT THAT IS NOT APPROVED OR DISAPPROVED BY THE EXECUTIVE COMMITTEE WITHIN SAID TWENTY DAYS SHALL BE AUTOMATICALLY APPROVED; EXCEPT THAT, IF WITHIN SAID TWENTY DAYS THE EXECUTIVE COMMITTEE SCHEDULES A HEARING ON SUCH ADJUSTMENT, SUCH AUTOMATIC APPROVAL SHALL NOT OCCUR UNLESS THE EXECUTIVE COMMITTEE DOES NOT APPROVE OR DISAPPROVE SUCH ADJUSTMENT AFTER THE CONCLUSION OF SUCH HEARING. ANY HEARING CONDUCTED BY THE EXECUTIVE COMMITTEE

PURSUANT TO THIS PARAGRAPH (c) SHALL BE CONCLUDED NO LATER THAN TWENTY-FIVE DAYS AFTER RECEIPT OF SUCH WRITTEN NOTIFICATION FROM THE EXECUTIVE DIRECTOR.

(d) IF THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL DISAPPROVES ANY ADJUSTMENT OF SAID DOLLAR AMOUNT CALCULATED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE PURSUANT TO THIS SUBSECTION (10), THE EXECUTIVE COMMITTEE SHALL SPECIFY SUCH ADJUSTED DOLLAR AMOUNT TO BE UTILIZED BY THE EXECUTIVE DIRECTOR. ANY ADJUSTED DOLLAR AMOUNT SPECIFIED BY THE EXECUTIVE COMMITTEE PURSUANT TO THIS PARAGRAPH (d) SHALL BE CALCULATED IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (10).

(e) FOR THE PURPOSE OF DETERMINING WHETHER THE STATE INCOME TAX CREDIT AUTHORIZED BY THIS SECTION IS TO BE ALLOWED IN ANY GIVEN TAX YEAR, THE EXECUTIVE DIRECTOR SHALL NOT UTILIZE ANY ADJUSTED DOLLAR AMOUNT THAT HAS NOT BEEN APPROVED PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (10) OR OTHERWISE SPECIFIED PURSUANT TO PARAGRAPH (d) OF THIS SUBSECTION (10).

(11) ANY INCOME TAX CREDIT FOR HEALTH CARE PROFESSIONALS PRACTICING IN A HEALTH CARE PROFESSIONAL SHORTAGE AREA ALLOWED FOR ANY GIVEN TAXABLE YEAR PURSUANT TO THIS SECTION SHALL BE PUBLISHED IN THE RULES PROMULGATED BY THE EXECUTIVE DIRECTOR IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AND SHALL BE INCLUDED IN INCOME TAX FORMS FOR THAT TAXABLE YEAR.

(12) IF ONE OR MORE BALLOT QUESTIONS ARE SUBMITTED TO THE VOTERS AT A STATEWIDE ELECTION TO BE HELD IN NOVEMBER OF ANY CALENDAR YEAR COMMENCING ON OR AFTER JANUARY 1, 2000, THAT SEEK AUTHORIZATION FOR THE STATE TO RETAIN AND SPEND ALL OR ANY PORTION OF THE AMOUNT OF EXCESS STATE REVENUES FOR THE STATE FISCAL YEAR ENDING DURING SAID CALENDAR YEAR, THE EXECUTIVE DIRECTOR SHALL NOT DETERMINE WHETHER THE CREDIT AUTHORIZED BY SUBSECTION (3) OF THIS SECTION SHALL BE ALLOWED AND SHALL NOT PROMULGATE RULES CONTAINING SAID CREDIT UNTIL THE IMPACT OF THE RESULTS OF SAID ELECTION ON THE AMOUNT OF THE EXCESS STATE REVENUES TO BE REFUNDED IS ASCERTAINED.

**SECTION 2. Effective date.** This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 23, 2000