

CHAPTER 381

TAXATION

SENATE BILL 13-001

BY SENATOR(S) Kefalas and Morse, Aguilar, Guzman, Ulibarri, Carroll, Giron, Hudak, Jones, Nicholson, Tochtrop;
also REPRESENTATIVE(S) Kagan, Levy, Buckner, Exum, Ginal, Hullinghorst, Labuda, Lebsack, Lee, May, Melton, Moreno,
Primavera, Rosenthal, Ryden, Salazar, Schafer, Singer, Tyler, Williams, Young.

AN ACT

CONCERNING INCOME TAX CREDITS TO SUPPORT WORKING FAMILIES, AND, IN CONNECTION THEREWITH, ENACTING THE "COLORADO WORKING FAMILIES ECONOMIC OPPORTUNITY ACT OF 2013" AND MAKING AN APPROPRIATION.

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

SECTION 1. Short title. This act shall be known and may be cited as the "Colorado Working Families Economic Opportunity Act of 2013".

SECTION 2. In Colorado Revised Statutes, 39-22-123, **add** (6) as follows:

39-22-123. Earned income tax credit - refund of state excess revenues for fiscal years commencing on or after July 1, 1998. (6) NO CREDIT IS ALLOWED UNDER THIS SECTION FOR AN INCOME TAX YEAR FOR WHICH A CREDIT IS ALLOWED UNDER SECTION 39-22-123.5.

SECTION 3. In Colorado Revised Statutes, **add** 39-22-123.5 as follows:

39-22-123.5. Earned income tax credit - not a refund of excess state revenues - trigger - legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) THE FEDERAL EARNED INCOME TAX CREDIT IS A REFUNDABLE TAX CREDIT FOR LOW- AND MIDDLE-INCOME WORKING INDIVIDUALS AND FAMILIES WHOSE EARNINGS ARE BELOW AN INCOME THRESHOLD;

(b) THE AMOUNT OF THE CREDIT INCREASES WITH INCOME UNTIL THE CREDIT REACHES A MAXIMUM LEVEL AND THEN PHASES OUT, AND THIS STRUCTURE CREATES

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

AN INCENTIVE FOR PEOPLE TO WORK AND EARN MORE INCOME;

(c) SINCE ITS ESTABLISHMENT IN 1975, THE CREDIT HAS INCREASED FAMILY INCOME, REDUCED CHILD POVERTY, AND PROMOTED EMPLOYMENT BY SUPPLEMENTING THE EARNINGS OF LOW-WAGE WORKERS, INCLUDING MILITARY FAMILIES;

(d) THE CREDIT HAS A POSITIVE IMPACT ON THE EDUCATION AND HEALTH OF CHILDREN LIVING IN POVERTY;

(e) THE CREDIT HAS A POSITIVE ECONOMIC IMPACT ON LOCAL ECONOMIES AND BUSINESSES BECAUSE IT PUTS MORE MONEY IN THE HANDS OF LOW- AND MIDDLE-INCOME WORKING PEOPLE WHO SPEND THE MONEY ON IMMEDIATE NEEDS, SUCH AS GROCERIES, SCHOOL SUPPLIES, CAR REPAIRS, RENT, AND HEALTH CARE;

(f) THE COLORADO EARNED INCOME TAX CREDIT CREATED IN SECTION 39-22-123 IS TEN PERCENT OF THE FEDERAL EARNED INCOME TAX CREDIT, BUT IT IS A MECHANISM TO REFUND EXCESS STATE REVENUES AS REQUIRED BY SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION;

(g) THIS EXISTING CREDIT HAS NOT BEEN IN EFFECT SINCE 2001 BECAUSE THE REFUND HAS NOT BEEN TRIGGERED; AND

(h) NOW, THEREFORE, IT IS THE INTENT OF THE GENERAL ASSEMBLY TO ESTABLISH A PERMANENT AND REFUNDABLE STATE EARNED INCOME TAX CREDIT FOR ELIGIBLE COLORADO TAXPAYERS, WHICH IS EQUAL TO TEN PERCENT OF THE FEDERAL EARNED INCOME TAX CREDIT. THE INTENDED PURPOSE OF THIS CREDIT IS TO HELP INDIVIDUALS AND FAMILIES ACHIEVE GREATER FINANCIAL SECURITY AND TO HELP COLORADO'S ECONOMY.

(2) FOR AN INCOME TAX YEAR SPECIFIED IN SUBSECTION (3) OF THIS SECTION, A RESIDENT INDIVIDUAL WHO CLAIMS AN EARNED INCOME TAX CREDIT ON THE INDIVIDUAL'S FEDERAL TAX RETURN IS ALLOWED AN EARNED INCOME TAX CREDIT AGAINST THE TAXES DUE UNDER THIS ARTICLE THAT IS EQUAL TO TEN PERCENT OF THE FEDERAL CREDIT THAT THE RESIDENT INDIVIDUAL CLAIMED ON HIS OR HER FEDERAL TAX RETURN FOR THE SAME TAX YEAR.

(3) IF A CREDIT IS ALLOWED UNDER SECTION 39-22-123 FOR AN INCOME TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2013, THE CREDIT ALLOWED UNDER THIS SECTION MAY BE CLAIMED FOR ANY INCOME TAX YEAR BEGINNING WITH THE INCOME TAX YEAR AFTER THE INCOME TAX YEAR THAT THE CREDIT IS ALLOWED UNDER SECTION 39-22-123.

(4) THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION THAT EXCEEDS THE RESIDENT INDIVIDUAL'S INCOME TAXES DUE IS REFUNDED TO THE INDIVIDUAL.

(5) IN THE CASE OF A PART-YEAR RESIDENT, THE CREDIT ALLOWED UNDER THIS SECTION IS APPORTIONED IN THE RATIO DETERMINED UNDER SECTION 39-22-110(1).

(6) THE CREDIT ALLOWED UNDER THIS SECTION IS NOT CONSIDERED TO BE INCOME OR RESOURCES FOR THE PURPOSE OF DETERMINING ELIGIBILITY FOR THE PAYMENT

OF PUBLIC ASSISTANCE BENEFITS AND MEDICAL ASSISTANCE BENEFITS AUTHORIZED UNDER STATE LAW OR FOR A PAYMENT MADE UNDER ANY OTHER PUBLICLY FUNDED PROGRAMS.

SECTION 4. In Colorado Revised Statutes, **add** 39-22-129 as follows:

39-22-129. Child tax credit - trigger - legislative declaration - definitions.

(1) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(I) THE FEDERAL CHILD TAX CREDIT, WHICH INCLUDES THE REFUNDABLE PORTION OF THE CREDIT COMMONLY KNOWN AS THE ADDITIONAL CHILD TAX CREDIT, SUPPORTS LOW- AND MIDDLE-INCOME WORKING FAMILIES WHOSE EARNINGS ARE BELOW AN INCOME THRESHOLD AND WHO HAVE CHILDREN UNDER SEVENTEEN YEARS OF AGE;

(II) SINCE ITS ESTABLISHMENT AT THE FEDERAL LEVEL IN 1997, THE CREDIT HAS INCREASED FAMILY INCOME, REDUCED CHILD POVERTY AMONG FAMILIES WITH CHILDREN, AND SUPPORTED LOCAL ECONOMIES; AND

(III) THE CREDIT HAS A POSITIVE IMPACT ON THE EARLY CHILDHOOD DEVELOPMENT AND HEALTH OF CHILDREN WHOSE FAMILIES GAIN INCOME FROM THE CREDIT.

(b) NOW, THEREFORE, IT IS THE INTENT OF THE GENERAL ASSEMBLY TO ESTABLISH A PERMANENT AND REFUNDABLE STATE CHILD TAX CREDIT FOR ELIGIBLE COLORADO TAXPAYERS, WHICH IS EQUAL TO A PERCENTAGE OF THE FEDERAL CREDIT BASED ON A FAMILY'S ADJUSTED GROSS INCOME. THE INTENDED PURPOSE OF THIS CREDIT IS TO SUPPORT COLORADO WORKING FAMILIES WITH YOUNG CHILDREN, REDUCE CHILD POVERTY, AND TO HELP COLORADO'S ECONOMY.

(2) AS USED IN THIS SECTION:

(a) "ELIGIBLE CHILD" MEANS A QUALIFYING CHILD FOR PURPOSES OF THE FEDERAL CHILD TAX CREDIT WHO IS UNDER SIX YEARS OF AGE AT THE END OF THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED.

(b) "FEDERAL CHILD TAX CREDIT" MEANS THE CHILD TAX CREDIT ALLOWED UNDER SECTION 24 OF THE INTERNAL REVENUE CODE, OR ANY SUCCESSOR SECTION, AND INCLUDES THE REFUNDABLE PORTION OF THE TAX CREDIT, WHICH PORTION IS REFERRED TO AS THE ADDITIONAL CHILD CREDIT.

(3) (a) FOR AN INCOME TAX YEAR SPECIFIED IN SUBSECTION (4) OF THIS SECTION, A RESIDENT INDIVIDUAL WHO CLAIMS A FEDERAL CHILD TAX CREDIT FOR AN ELIGIBLE CHILD ON THE INDIVIDUAL'S FEDERAL TAX RETURN IS ALLOWED A CHILD TAX CREDIT AGAINST THE INCOME TAXES DUE UNDER THIS ARTICLE FOR THE SAME TAX YEAR.

(b) (I) FOR A RESIDENT INDIVIDUAL WHO FILES A SINGLE RETURN, THE AMOUNT OF THE CREDIT IS EQUAL TO:

(A) THIRTY PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT THE RESIDENT

INDIVIDUAL CLAIMED ON HIS OR HER FEDERAL TAX RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUAL'S FEDERAL ADJUSTED GROSS INCOME IS TWENTY-FIVE THOUSAND DOLLARS OR LESS;

(B) FIFTEEN PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT THE RESIDENT INDIVIDUAL CLAIMED ON HIS OR HER FEDERAL TAX RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUAL'S FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN TWENTY-FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO FIFTY THOUSAND DOLLARS; AND

(C) FIVE PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT THE RESIDENT INDIVIDUAL CLAIMED ON HIS OR HER FEDERAL TAX RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUAL'S FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN FIFTY THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO SEVENTY-FIVE THOUSAND DOLLARS.

(II) A RESIDENT INDIVIDUAL WHO FILES A SINGLE RETURN AND WHOSE FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN SEVENTY-FIVE THOUSAND DOLLARS IS NOT ALLOWED A CREDIT UNDER THIS SECTION.

(c) (I) FOR TWO RESIDENT INDIVIDUALS WHO FILE A JOINT RETURN, THE AMOUNT OF THE CREDIT IS EQUAL TO:

(A) THIRTY PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT THE RESIDENT INDIVIDUALS CLAIMED ON THEIR FEDERAL TAX RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUALS' FEDERAL ADJUSTED GROSS INCOME IS THIRTY-FIVE THOUSAND DOLLARS OR LESS;

(B) FIFTEEN PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT THE RESIDENT INDIVIDUALS CLAIMED ON THEIR FEDERAL TAX RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUALS' FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN THIRTY-FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO SIXTY THOUSAND DOLLARS; AND

(C) FIVE PERCENT OF THE FEDERAL CHILD TAX CREDIT THAT THE RESIDENT INDIVIDUALS CLAIMED ON THEIR FEDERAL TAX RETURN FOR EACH ELIGIBLE CHILD, IF THE INDIVIDUALS' FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN SIXTY THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO EIGHTY-FIVE THOUSAND DOLLARS.

(II) TWO RESIDENT INDIVIDUALS WHO FILE A JOINT RETURN AND WHOSE FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN EIGHTY-FIVE THOUSAND DOLLARS ARE NOT ALLOWED A CREDIT UNDER THIS SECTION.

(4) NO CREDIT IS ALLOWED UNDER THIS SECTION UNTIL THE UNITED STATES CONGRESS HAS ENACTED THE "MARKETPLACE FAIRNESS ACT OF 2013", OR ANY OTHER ACT WITH SUBSTANTIALLY SIMILAR REQUIREMENTS, AND THE GENERAL ASSEMBLY HAS ENACTED A LAW TO IMPLEMENT THE MINIMUM SIMPLIFICATION REQUIREMENTS IN THE CONGRESSIONAL ACT. THE CREDIT ALLOWED UNDER THIS SECTION MAY BE CLAIMED FOR ANY INCOME TAX YEAR BEGINNING WITH THE INCOME TAX YEAR DURING WHICH THE LAST PREREQUISITE BILL UNDER THIS SUBSECTION (4)

BECOMES LAW; EXCEPT THAT, IF THE LAST BILL BECOMES LAW AFTER OCTOBER 1 OF A GIVEN YEAR, THE CREDIT IS FIRST AVAILABLE IN THE NEXT INCOME TAX YEAR, AND IN NO CASE MAY THE CREDIT BE CLAIMED PRIOR TO THE 2014 INCOME TAX YEAR.

(5) THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION THAT EXCEEDS THE RESIDENT INDIVIDUAL'S INCOME TAXES DUE IS REFUNDED TO THE INDIVIDUAL.

(6) IN THE CASE OF A PART-YEAR RESIDENT, THE CREDIT ALLOWED UNDER THIS SECTION IS APPORTIONED IN THE RATIO DETERMINED UNDER SECTION 39-22-110(1).

(7) THE CREDIT ALLOWED UNDER THIS SECTION IS NOT CONSIDERED TO BE INCOME OR RESOURCES FOR THE PURPOSE OF DETERMINING ELIGIBILITY FOR THE PAYMENT OF PUBLIC ASSISTANCE BENEFITS AND MEDICAL ASSISTANCE BENEFITS AUTHORIZED UNDER STATE LAW OR FOR A PAYMENT MADE UNDER ANY OTHER PUBLICLY FUNDED PROGRAMS.

SECTION 5. In Colorado Revised Statutes, 39-22-627, **add** (9) as follows:

39-22-627. Temporary adjustment of rate of income tax - refund of excess state revenues - authority of executive director. (9) IF, BY OPERATION OF SECTION 39-22-123 (6), EXCESS STATE REVENUES ARE NO LONGER REFUNDED THROUGH AN EARNED INCOME TAX CREDIT, THE TOTAL OF THE ADJUSTED AMOUNT SET FORTH IN SECTION 39-22-123 (4) (c) IS NOT ADDED TO THE ESTIMATED AMOUNT BY WHICH STATE REVENUES WOULD BE DECREASED AS THE RESULT OF A REDUCTION IN THE STATE INCOME TAX RATE FOR PURPOSES OF THE CALCULATIONS SET FORTH IN PARAGRAPH (b) OF SUBSECTION (1) AND SUBSECTIONS (3) AND (6) OF THIS SECTION.

SECTION 6. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 2013, the sum of \$60,000, or so much thereof as may be necessary, for allocation to the taxation business group for contract programming services related to the implementation of this act.

SECTION 7. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 5, 2013