

First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

REDRAFT

4/28/25

Double underlining
denotes changes from
prior draft

DRAFT

LLS NO. 25-1072.02 Pierce Lively x2059

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: Tax Credit Availability

A BILL FOR AN ACT

101 CONCERNING THE DETERMINATION OF THE EXTENT OF THE
102 AVAILABILITY OF INCOME TAX CREDITS THAT ARE CONTINGENT
103 UPON THE COMPOUND ANNUAL GROWTH RATE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Joint Budget Committee. The bill makes similar changes to both the family affordability tax credit and the earned income tax credit. The bill modifies how the extent of the availability of both tax credits is determined. Under current law, the availability of both tax credits is determined by the compound annual growth rate between actual state

*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words indicate deletions from existing law.*

revenue in state fiscal year 2024-25 and projected state revenue for the fiscal year that begins during the relevant state income tax year. Under the bill, the availability of both tax credits is determined by the compound annual growth rate between state revenue for state fiscal year 2024-25, as projected in the March 2024 office of state planning and budgeting revenue forecast, and projected state revenue for the fiscal year that begins during the relevant state income tax year.

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

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

4 (a) In the 2024 regular session, the general assembly created the
5 family affordability tax credit and expanded the earned income tax credit;

6 (b) Both tax credits were unconditionally available for state
7 income tax year 2024 and are only available conditionally, and in
8 conditional amounts, beginning in state income tax year 2025;

9 (c) Whether the tax credits are available and the amounts of the
10 credits that are available are determined in part by the compound annual
11 growth rate between certain state revenue in state fiscal year 2024-25 and
12 the corresponding state revenue in the state fiscal year that begins in the
13 relevant state income tax year;

14 (d) It was the general assembly's intent, in using state fiscal year
15 2024-25 state revenue as an element of determining the extent to which
16 the tax credits are available, to use a state fiscal year in which state
17 revenue was sufficient not to limit the general assembly's ability to
18 appropriate money from the general fund;

19 (e) The most recent revenue forecasts prepared by legislative
20 council staff and the office of state planning and budgeting acknowledge
21 a significant possibility that, contrary to the general assembly's intent,
22 using state fiscal year 2024-25 state revenue as an element of determining

1 the extent to which the tax credits are available may limit the general
2 assembly's ability to appropriate money from the general fund;

3 (f) Using state fiscal year 2024-25 as forecast in the March 2024
4 office of state planning and budgeting revenue forecast in determining the
5 extent to which the tax credits are available would not similarly limit the
6 general assembly's ability to appropriate money from the general fund;

7 (g) This Senate Bill _____ modifies both tax credits so that
8 whether the tax credits are available and the amounts of the credits that
9 are available are determined based on the compound annual growth rate
10 between certain state revenue in state fiscal year 2023-24 and the
11 corresponding state fiscal year that begins in the relevant state income tax
12 year;

13 (h) The primary purpose of the modification of these tax credits
14 is to better effectuate the intent of the general assembly in creating the
15 family affordability tax credit and expanding the earned income tax
16 credit;

17 (i) Any state revenue gain that results from the modification of
18 these tax expenditures is de minimis and incidental to the primary purpose
19 of modifying these tax credits; and

20 (j) Therefore, consistent with the Colorado supreme court's
21 holding in *TABOR Foundation v. Reg'l Transp. Dist.*, 2018 CO 29, that
22 legislation that causes only an incidental and de minimis tax revenue
23 increase does not amount to a new tax or a tax policy change that requires
24 prior voter approval pursuant to section 20 of article V of the state
25 constitution, the modifications to these tax credits are not tax policy
26 changes that require voter approval.

27 **SECTION 2.** In Colorado Revised Statutes, 39-22-130, **amend**

1 (2)(b)(II)(C) as follows:

2 **39-22-130. Family affordability tax credit - tax preference**
3 **performance statement - legislative declaration - definitions - repeal.**

4 (2) As used in this section, unless the context otherwise requires:

5 (b) (II) As used in this subsection (2)(b):

6 (C) "BV" means ~~on or before December 31, 2024~~, the estimate of
7 the state's nonexempt revenue for state fiscal year 2024-25 included in ~~the~~
8 ~~applicable forecast excluding the projected aggregate amount of the tax~~
9 ~~credit allowed pursuant to this section and the projected aggregate amount~~
10 ~~of the increased portion of the earned income tax credit allowed pursuant~~
11 ~~to section 39-22-123.5 (3.5), created in House Bill 24-1134, enacted in~~
12 ~~2024, for the given income tax year, and after December 31, 2024, the~~
13 ~~amount of the state's nonexempt revenue for state fiscal year 2024-25~~
14 ~~excluding the aggregate amount of the tax credit allowed pursuant to this~~
15 ~~section and the aggregate amount of the increased portion of the earned~~
16 ~~income tax credit allowed pursuant to section 39-22-123.5 (3.5), created~~
17 ~~in House Bill 24-1134, enacted in 2024, for the given income tax~~ THE
18 2024 OFFICE OF STATE PLANNING AND BUDGETING MARCH REVENUE
19 FORECAST.

20 **SECTION 3.** In Colorado Revised Statutes, 39-22-123.5, **amend**
21 (3.5)(a)(III) as follows:

22 **39-22-123.5. Earned income tax credit - legislative declaration**
23 **- repeal.** (3.5) (a) As used in this subsection (3.5), unless the context
24 otherwise requires:

25 (III) "BV" means ~~on or before December 31, 2024~~, the estimate
26 of the state's nonexempt revenue for state fiscal year 2024-25 included in
27 ~~the applicable forecast excluding the projected aggregate amount of the~~

1 ~~increased portion of the earned income tax credit allowed pursuant to~~
2 ~~subsection (3.5)(b) or (3.5)(c) of this section and the projected aggregate~~
3 ~~amount of the credit allowed pursuant to section 39-22-130, created in~~
4 ~~House Bill 24-1311, enacted in 2024, for the given income tax year, and~~
5 ~~after December 31, 2024, the amount of the state's nonexempt revenue for~~
6 ~~state fiscal year 2024-25 excluding the aggregate amount of the increased~~
7 ~~portion of the earned income tax credit allowed pursuant to subsection~~
8 ~~(3.5)(b) or (3.5)(c) of this section and the aggregate amount of the credit~~
9 ~~allowed pursuant to section 39-22-130, created in House Bill 24-1311,~~
10 ~~enacted in 2024, for the given income tax year~~ THE 2024 OFFICE OF STATE
11 PLANNING AND BUDGETING MARCH REVENUE FORECAST.

12 **SECTION 4. Safety clause.** The general assembly finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, or safety or for appropriations for
15 the support and maintenance of the departments of the state and state
16 institutions.