

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 20-0595.01 Ed DeCecco x4216

HOUSE BILL 20-1203

HOUSE SPONSORSHIP

Sirota and Gray,

SENATE SPONSORSHIP

Gonzales,

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING AN INCOME TAX POLICY CHANGE NOT DIRECTLY**
102 **CAUSING A NET TAX REVENUE GAIN THAT EXPANDS ENACTED**
103 **REFUNDABLE INDIVIDUAL STATE INCOME TAX CREDITS THAT**
104 **ARE A PERCENTAGE OF SIMILAR FEDERAL INCOME TAX CREDITS**
105 **TO BE OFFSET BY EXPANDING REVENUE THROUGH**
106 **DISTINGUISHING COLORADO TAXABLE INCOME FROM FEDERAL**
107 **TAXABLE INCOME, AND, IN CONNECTION THEREWITH, ENACTING**
108 **THE "HELPING COLORADO FAMILIES GET AHEAD ACT".**

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

<http://leg.colorado.gov>.)

The starting point for determining state income tax liability is federal taxable income. This number is adjusted for additions and subtractions that are used to determine Colorado taxable income, which amount is multiplied by the state's income tax rate. **Section 3** of the bill requires an individual to add to his or her federal taxable income an amount equal to the federal income tax deduction that he or she took for his or her combined qualified business income amount. The federal deduction may be claimed for income tax years commencing prior to January 1, 2026.

The earned income tax credit is equal to a percentage of the federal earned income tax credit. **Section 4** increases the percentage from 10% to 20% beginning in 2021.

The state child tax credit, which is also a percentage of the federal child tax credit based on the taxpayer's income, is only allowed after the United States Congress enacts a version of the "Marketplace Fairness Act". **Section 5** repeals this condition and instead allows the credit to be claimed beginning in 2021.

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

2 **SECTION 1. Short title.** The short title of this act is the "Helping
3 Colorado Families Get Ahead Act".

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

6 (a) While the state is constitutionally required to tax all income at
7 the same rate, the general assembly has enacted changes to the income tax
8 code;

9 (b) These changes are defined as "tax expenditures" and they
10 include credits, deductions, and additions or subtractions to taxable
11 income and they reflect legislative priorities about the distribution of the
12 tax burden among various taxpayers;

13 (c) The state income tax is coupled with the internal revenue code,
14 and so federal income tax deductions automatically change state taxable

1 income;

2 (d) When Congress enacted the "Tax Cuts and Jobs Act" in 2017
3 it enacted a deduction for certain pass-through entities that reduced
4 taxable income for some Colorado taxpayers;

5 (e) This change has the effect of being a state tax expenditure that
6 reduces total Colorado taxable income; and

7 (f) Under section 20 (4)(a) of article X of the state constitution,
8 the state needs prior voter approval for any tax policy change directly
9 causing a net revenue gain to the state.

10 (2) Now, therefore, it is the intent of the general assembly to enact
11 a single, unified tax policy that:

12 (a) Restores the state's preferences for calculating state taxable
13 income;

14 (b) Creates an income tax that provides tax expenditures for
15 working families and individuals with lower income;

16 (c) Eliminates the indirect state deduction for qualified business
17 income;

18 (d) Implements a state tax system, which includes state and local
19 taxes, that is more equitable;

20 (e) Is revenue neutral or results in a modest decrease in state
21 revenue; and

22 (f) Does not directly cause a net tax revenue gain to the state and,
23 therefore, does not require prior voter approval.

24 **SECTION 3.** In Colorado Revised Statutes, 39-22-104, **add** (3)(l)
25 as follows:

26 **39-22-104. Income tax imposed on individuals, estates, and**
27 **trusts - single rate - legislative declaration - definitions - repeal.**

1 (3) There shall be added to the federal taxable income:

2 (1) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
3 1, 2021, AN AMOUNT EQUAL TO THE DEDUCTION ALLOWED UNDER SECTION
4 199A OF THE INTERNAL REVENUE CODE.

5 **SECTION 4.** In Colorado Revised Statutes, 39-22-123.5, **amend**
6 (1)(h) and (2); and **repeal** (3) as follows:

7 **39-22-123.5. Earned income tax credit - not a refund of excess**
8 **state revenues - trigger - legislative declaration.** (1) The general
9 assembly hereby finds and declares that:

10 (h) Now, therefore, it is the intent of the general assembly to
11 establish a permanent and refundable state earned income tax credit for
12 eligible Colorado taxpayers. ~~which is equal to ten percent of the federal~~
13 ~~earned income tax credit.~~ The intended purpose of this credit is to help
14 individuals and families achieve greater financial security and to help
15 Colorado's economy.

16 (2) For an income tax year ~~specified in subsection (3) of this~~
17 ~~section~~ COMMENCING PRIOR TO JANUARY 1, 2021, a resident individual
18 who claims an earned income tax credit on the individual's federal tax
19 return is allowed an earned income tax credit against the taxes due under
20 this ~~article~~ ARTICLE 22 that is equal to ten percent of the federal credit that
21 the resident individual claimed on his or her federal tax return for the
22 same tax year. FOR AN INCOME TAX YEAR COMMENCING ON OR AFTER
23 JANUARY 1, 2021, A RESIDENT INDIVIDUAL WHO CLAIMS AN EARNED
24 INCOME TAX CREDIT ON THE INDIVIDUAL'S FEDERAL TAX RETURN IS
25 ALLOWED AN EARNED INCOME TAX CREDIT AGAINST THE TAXES DUE
26 UNDER THIS ARTICLE 22 THAT IS EQUAL TO TWENTY AND TWELVE
27 ONE-HUNDREDTHS PERCENT OF THE FEDERAL CREDIT THAT THE RESIDENT

1 INDIVIDUAL CLAIMED ON HIS OR HER FEDERAL TAX RETURN FOR THE SAME
2 TAX YEAR.

3 (3) ~~If a credit is allowed under section 39-22-123 for an income~~
4 ~~tax year commencing on or after January 1, 2013, the credit allowed~~
5 ~~under this section may be claimed for any income tax year beginning with~~
6 ~~the income tax year after the income tax year that the credit is allowed~~
7 ~~under section 39-22-123.~~

8 **SECTION 5.** In Colorado Revised Statutes, 39-22-129, **amend**
9 (3)(a); **repeal** (4); and **add** (3)(d) as follows:

10 **39-22-129. Child tax credit - trigger - legislative declaration**
11 **- definitions.** (3) (a) For ~~an~~ ANY income tax year ~~specified in subsection~~
12 ~~(4) of this section~~ COMMENCING ON OR AFTER JANUARY 1, 2021, a resident
13 individual who claims a federal child tax credit for an eligible child on the
14 individual's federal tax return is allowed a child tax credit against the
15 income taxes due under this ~~article~~ ARTICLE 22 for the same tax year.

16 (d) ~~IN THE CASE OF TWO RESIDENT INDIVIDUALS WHO MAY~~
17 ~~LEGALLY FILE A JOINT RETURN BUT ACTUALLY FILE SEPARATE RETURNS,~~
18 ~~ONLY ONE OF THE RESIDENT INDIVIDUALS MAY CLAIM A CREDIT UNDER~~
19 ~~THIS SECTION.~~

20 (4) ~~No credit is allowed under this section until the United States~~
21 ~~congress has enacted the "Marketplace Fairness Act of 2013", or any~~
22 ~~other act with substantially similar requirements, and the general~~
23 ~~assembly has enacted a law to implement the minimum simplification~~
24 ~~requirements in the congressional act. The credit allowed under this~~
25 ~~section may be claimed for any income tax year beginning with the~~
26 ~~income tax year during which the last prerequisite bill under this~~
27 ~~subsection (4) becomes law; except that, if the last bill becomes law after~~

1 ~~October 1 of a given year, the credit is first available in the next income~~
2 ~~tax year and in no case may the credit be claimed prior to the 2014~~
3 ~~income tax year.~~

4 **SECTION 6. Act subject to petition - effective date.** This act
5 takes effect at 12:01 a.m. on the day following the expiration of the
6 ninety-day period after final adjournment of the general assembly (August
7 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
8 referendum petition is filed pursuant to section 1 (3) of article V of the
9 state constitution against this act or an item, section, or part of this act
10 within such period, then the act, item, section, or part will not take effect
11 unless approved by the people at the general election to be held in
12 November 2020 and, in such case, will take effect on the date of the
13 official declaration of the vote thereon by the governor.