

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0892.01 Jason Gelender x4330

HOUSE BILL 24-1084

HOUSE SPONSORSHIP

Willford and Young,

SENATE SPONSORSHIP

Kolker,

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE REPEAL AND REENACTMENT OF THE LAW ENACTED
102 BY HOUSE BILL 23B-1002 THAT INCREASED THE EARNED
103 INCOME TAX CREDIT FOR 2023, AND, IN CONNECTION
104 THEREWITH, MAKING AN APPROPRIATION.

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>.)

During the first extraordinary session of the seventy-fourth general assembly, which occurred in November 2023, the general assembly enacted House Bill 23B-1002 (HB 1002), which increased the amount of

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

the state earned income tax credit for 2023 from 25% to 50% of the amount of the federal earned income tax credit as a means of refunding excess state revenues for the 2022-23 state fiscal year that TABOR requires to be refunded in the 2023-24 state fiscal year.

On December 28, 2023, a member of the house of representatives (house) filed a lawsuit alleging that the house failed to follow the constitutional requirement that the house read a bill at length unless such reading is waived by the unanimous consent of all house members present when enacting HB 1002 and that HB 1002 therefore must be declared null and void.

To remove any doubt arising from the lawsuit regarding the constitutionality of the law enacted by HB 1002, the bill repeals and reenacts that law.

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) During the first extraordinary session of the seventy-fourth
5 general assembly, which occurred in November 2023, the general
6 assembly enacted House Bill 23B-1002, which, in order to refund excess
7 state revenues for the 2022-23 state fiscal year that are required by the
8 Taxpayer's Bill of Rights, section 20 of article X of the state constitution,
9 to be refunded in the 2023-24 state fiscal year, increased the amount of
10 the state earned income tax credit for 2023 from 25% to 50% of the
11 amount of the federal earned income tax credit;

12 (b) On December 28, 2023, a member of the house of
13 representatives filed a lawsuit alleging that the house of representatives
14 failed to follow the constitutional requirement, set forth in section 22 of
15 article V of the state constitution, that a bill be read at length unless such
16 reading is waived by the unanimous consent of all members of the house
17 of representatives present when enacting House Bill 23B-1002 and that
18 House Bill 23B-1002 therefore must be declared null and void; and

1 (c) Notwithstanding the fact that the procedures followed by the
2 house of representatives complied with house rules and state law in all
3 respects, it is in the best interest of the state and Colorado taxpayers to
4 remove any doubt arising from the lawsuit as to the constitutionality of
5 the law enacted by House Bill 23B-1002 by repealing and reenacting that
6 law and thereby ensuring that the intent of the general assembly in
7 enacting House Bill 23B-1002 is realized and that taxpayers who claim
8 the state earned income tax credit and the department of revenue can rely
9 with certainty on the law when filing income tax returns and
10 administering the state income tax.

11 **SECTION 2.** In Session Laws of Colorado 2023, First
12 Extraordinary Session, **repeal and reenact** 39-22-123.5 (2.8), Colorado
13 Revised Statutes, as added by section 1 of chapter 3, as follows:

14 **39-22-123.5. Earned income tax credit - legislative declaration**
15 **- repeal.** (2.8) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
16 JANUARY 1, 2023, BUT BEFORE JANUARY 1, 2024, ONLY, THE RATE OF
17 CREDIT ALLOWED FOR THE RESIDENT INDIVIDUALS DESCRIBED IN
18 SUBSECTIONS (2), (2.5), AND (2.7), OF THIS SECTION, RESPECTIVELY, IS
19 INCREASED FROM TWENTY-FIVE PERCENT TO FIFTY PERCENT OF THE
20 FEDERAL CREDIT DESCRIBED IN THE RESPECTIVE SUBSECTIONS (2), (2.5),
21 AND (2.7) OF THIS SECTION.

22 (b) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT
23 INCREASING THE RATE OF THE CREDIT AS SPECIFIED IN SUBSECTION (2.8)(a)
24 OF THIS SECTION REDUCES THE AMOUNT OF STATE REVENUES, AS DEFINED
25 IN SECTION 24-77-103.6 (6)(c), FOR THE 2023-24 STATE FISCAL YEAR AND
26 IS THEREFORE, AFTER EXCESS STATE REVENUES FOR THE 2022-23 STATE
27 FISCAL YEAR ARE REFUNDED PURSUANT TO SECTIONS 39-3-209, 39-3-210,

1 AND ANY OTHER REFUND MECHANISM PROVIDED FOR IN LAW OTHER THAN
2 THE REFUND MECHANISM PROVIDED FOR IN PART 20 OF ARTICLE 22 OF THIS
3 TITLE, A REASONABLE METHOD OF REFUNDING A PORTION OF ANY
4 REMAINING EXCESS STATE REVENUES FOR THE 2022-23 STATE FISCAL
5 YEAR THAT ARE REQUIRED TO BE REFUNDED IN THE 2023-24 STATE FISCAL
6 YEAR IN ACCORDANCE WITH SECTION 20 (7)(d) OF THE STATE
7 CONSTITUTION.

8 **SECTION 3.** In Session Laws of Colorado 2023, First
9 Extraordinary Session, **repeal and reenact** section 2 of chapter 3 as
10 follows:

11 Section 2. **Appropriation.** (1) For the 2023-24 state fiscal year,
12 \$51,483 is appropriated to the department of revenue. This appropriation
13 is from the general fund. To implement this act, the department may use
14 this appropriation as follows:

- 15 (a) \$23,175 for tax administration IT system (GenTax) support;
- 16 (b) \$13,792 for use by taxation services for personal services;
- 17 (c) \$14,000 for use by the executive director's office for personal
18 services related to administration and support; and
- 19 (d) \$516 for the purchase of document management services.

20 (2) For the 2023-24 state fiscal year, \$516 is appropriated to the
21 department of personnel. This appropriation is from reappropriated funds
22 received from the department of revenue under subsection (1)(d) of this
23 section. To implement this act, the department of personnel may use this
24 appropriation to provide document management services for the
25 department of revenue.

26 **SECTION 4. Safety clause.** The general assembly finds,
27 determines, and declares that this act is necessary for the immediate

1 preservation of the public peace, health, or safety or for appropriations for
2 the support and maintenance of the departments of the state and state
3 institutions.