

CHAPTER 1

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**TAXATION**

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**HOUSE BILL 97S-1001**

BY REPRESENTATIVES Grampas, Anderson, Dean, Gordon, Hagedorn, Morrison, Nichol, Reeser, Saliman, Snyder, Takis, Tate, Tupa, Udall, and Zimmerman;  
also SENATORS Lacy, Bishop, Chlouber, Dennis, Norton, Perlmutter, Rizzuto, Schroeder, Tebedo, Wattenberg, and Wells.

**AN ACT**

CONCERNING THE GRANTING OF A ONE-TIME TAX CREDIT TO QUALIFIED INDIVIDUALS FOR THE PURPOSE OF REFUNDING STATE REVENUES IN EXCESS OF THE CONSTITUTIONAL LIMITATION ON STATE FISCAL YEAR SPENDING FOR THE 1996-97 STATE FISCAL YEAR, AND MAKING AN APPROPRIATION THEREFOR.

*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:

**39-22-120. Legislative declaration - state sales tax refund - credit against state income tax.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, WHICH WAS APPROVED BY THE REGISTERED ELECTORS OF THIS STATE IN 1992, LIMITS THE ANNUAL GROWTH OF STATE FISCAL YEAR SPENDING;

(b) DURING THE 1996-97 FISCAL YEAR, STATE REVENUES FROM SOURCES NOT EXCLUDED FROM STATE FISCAL YEAR SPENDING EXCEEDED THE LIMITATION ON STATE FISCAL YEAR SPENDING;

(c) WHEN REVENUES EXCEED THE STATE FISCAL YEAR SPENDING LIMITATION FOR ANY GIVEN FISCAL YEAR, SECTION 20 (7) (d) OF ARTICLE X OF THE STATE CONSTITUTION REQUIRES THAT THE EXCESS REVENUES BE REFUNDED IN THE NEXT FISCAL YEAR UNLESS VOTERS APPROVE A REVENUE CHANGE ALLOWING THE STATE TO KEEP THE REVENUES;

(d) IN ADDITION, SECTION 20 (1) 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.*

STATES THAT REFUNDS NEED NOT BE PROPORTIONAL WHEN PRIOR PAYMENTS ARE IMPRACTICAL TO IDENTIFY OR RETURN AND AUTHORIZES THE USE OF ANY REASONABLE METHOD FOR REFUNDING EXCESS REVENUES;

(e) SINCE VOTERS HAVE NOT APPROVED A REVENUE CHANGE, THE STATE IS REQUIRED TO REFUND DURING THE 1997-98 FISCAL YEAR THE REVENUES IN EXCESS OF THE STATE FISCAL YEAR SPENDING LIMITATION FOR THE 1996-97 FISCAL YEAR;

(f) IT IS WITHIN THE LEGISLATIVE PREROGATIVE OF THE GENERAL ASSEMBLY TO ENACT LEGISLATION TO IMPLEMENT THE REFUND OF STATE EXCESS REVENUES FOR THE 1996-97 FISCAL YEAR IN COMPLIANCE WITH SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION;

(g) IT IS A REASONABLE AND NECESSARY EXERCISE OF THE LEGISLATIVE PREROGATIVE TO DETERMINE THAT, DUE TO THE IMPOSSIBILITY OF IDENTIFYING OR RETURNING PRIOR PAYMENTS, IT IS NOT FEASIBLE TO MAKE PROPORTIONAL REFUNDS OF STATE EXCESS REVENUES;

(h) IT IS ALSO A REASONABLE AND NECESSARY EXERCISE OF THE LEGISLATIVE PREROGATIVE TO DETERMINE WHAT CONSTITUTES A REASONABLE METHOD OF REFUNDING STATE EXCESS REVENUES AFTER CONSIDERATION OF THE BEST INFORMATION AVAILABLE AT THE TIME REGARDING: THE AMOUNT AND SOURCE OF EXCESS REVENUES TO BE REFUNDED; THE QUALIFICATIONS FOR AND NUMBER OF ELIGIBLE RECIPIENTS; THE AMOUNT OF REFUND EACH RECIPIENT SHOULD RECEIVE; THE NECESSARY PROCEDURES TO CLAIM AND MAKE REFUNDS; AND THE RELATED ADMINISTRATIVE EXPENSES;

(i) IT IS THE CONSIDERED JUDGMENT OF THE GENERAL ASSEMBLY THAT:

(I) THE STATE EXCESS REVENUES FOR THE 1996-97 FISCAL YEAR ARE DERIVED FROM A WIDE VARIETY OF STATE TAXES AND FEES RANGING FROM STATE SALES TAX TO SEVERANCE AND TRANSPORTATION TAXES TO HEALTH SERVICE FEES TO COURT FINES TO PERMIT AND LICENSE FEES AND TO HIGHER EDUCATION FEES AND SHOULD, THEREFORE, BE RETURNED TO AS LARGE A GROUP OF COLORADO RESIDENTS AS IS IDENTIFIABLE AND ECONOMICALLY FEASIBLE;

(II) IT IS NOT FEASIBLE TO MAKE PROPORTIONAL REFUNDS OF STATE EXCESS REVENUES FOR THE 1996-97 FISCAL YEAR DUE TO THE IMPOSSIBILITY OF IDENTIFYING OR RETURNING PRIOR PAYMENTS;

(III) IT IS REASONABLE AND FAIR TO REFUND STATE EXCESS REVENUES FOR THE 1996-97 FISCAL YEAR TO A LARGE GROUP OF INDIVIDUALS AS A REFUND OF STATE SALES TAX REVENUES SINCE MORE COLORADANS PAY STATE SALES TAX THAN ANY OTHER STATE TAX;

(IV) THE STATE COLLECTED OVER ONE BILLION THREE MILLION DOLLARS IN STATE SALES TAX REVENUES DURING THE 1996-97 FISCAL YEAR FROM WHICH THE REFUND OF STATE EXCESS REVENUES MAY BE MADE;

(V) REFUNDING STATE EXCESS REVENUES FOR THE 1996-97 FISCAL YEAR THROUGH THE STATE INCOME TAX SYSTEM IN THE MANNER SET FORTH IN THIS SECTION IS A

REASONABLE METHOD FOR REFUNDING SUCH EXCESS REVENUES; AND

(VI) THE MOST COST-EFFECTIVE AND EXPEDITIOUS METHOD OF REFUNDING STATE EXCESS REVENUES FOR THE 1996-97 FISCAL YEAR IS THROUGH THE STATE INCOME TAX SYSTEM BUT THAT A CREDIT AGAINST STATE INCOME TAX IS MERELY A MECHANISM FOR REFUNDING SAID STATE EXCESS REVENUES TO A BROAD SPECTRUM OF PERSONS.

(2) AS USED IN THIS SECTION, "QUALIFIED INDIVIDUAL" MEANS:

(a) A NATURAL PERSON WHO IS DOMICILED IN THIS STATE FOR THE ENTIRE TAXABLE YEAR COMMENCING ON JANUARY 1, 1997, AND ENDING DECEMBER 31, 1997, AND WHO IS REQUIRED TO FILE A COLORADO INDIVIDUAL INCOME TAX RETURN FOR THAT TAX YEAR PURSUANT TO SECTION 39-22-601 (1) (a) OR WHO FILES A COLORADO INDIVIDUAL INCOME TAX RETURN TO CLAIM A REFUND OF COLORADO INCOME TAX WITHHELD FROM WAGES OR ESTIMATED COLORADO INCOME TAX PAID FOR THAT TAX YEAR; OR

(b) ANY NATURAL PERSON WHO IS DOMICILED IN THIS STATE FOR THE ENTIRE TAXABLE YEAR COMMENCING ON JANUARY 1, 1997, AND ENDING DECEMBER 31, 1997, AND WHO IS AT LEAST EIGHTEEN YEARS OF AGE AS OF DECEMBER 31, 1996.

(3) WITH RESPECT TO THE TAXABLE YEAR COMMENCING ON JANUARY 1, 1997, AND ENDING DECEMBER 31, 1997, THERE SHALL BE ALLOWED TO EACH QUALIFIED INDIVIDUAL A STATE SALES TAX REFUND CREDIT IN AN AMOUNT SPECIFIED IN SUBSECTION (4) OF THIS SECTION WITH RESPECT TO THE INCOME TAXES IMPOSED BY THIS ARTICLE.

(4) THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION SHALL BE AS FOLLOWS:

(a) FOR A QUALIFIED INDIVIDUAL FILING A SINGLE RETURN, A MARRIED FILING SEPARATE RETURN, OR AS A HEAD OF A HOUSEHOLD FOR THE 1997 TAX YEAR:

(I) IF THE QUALIFIED INDIVIDUAL'S FEDERAL ADJUSTED GROSS INCOME FOR THE 1997 TAX YEAR IS LESS THAN OR EQUAL TO FIFTEEN THOUSAND DOLLARS, THE CREDIT SHALL BE IN THE AMOUNT OF THIRTY-SEVEN DOLLARS;

(II) IF THE QUALIFIED INDIVIDUAL'S FEDERAL ADJUSTED GROSS INCOME FOR THE 1997 TAX YEAR IS GREATER THAN FIFTEEN THOUSAND DOLLARS BUT NOT MORE THAN ONE HUNDRED THOUSAND DOLLARS, THE CREDIT SHALL BE IN THE AMOUNT OF SIXTY DOLLARS;

(III) IF THE QUALIFIED INDIVIDUAL'S FEDERAL ADJUSTED GROSS INCOME FOR THE 1997 TAX YEAR IS MORE THAN ONE HUNDRED THOUSAND DOLLARS, THE CREDIT SHALL BE IN THE AMOUNT OF EIGHTY DOLLARS.

(b) FOR TWO QUALIFIED INDIVIDUALS FILING A JOINT RETURN OR A QUALIFIED INDIVIDUAL FILING AS A SURVIVING SPOUSE FOR THE 1997 TAX YEAR:

(I) IF THE QUALIFIED INDIVIDUALS' AGGREGATE FEDERAL ADJUSTED GROSS INCOME IS LESS THAN OR EQUAL TO FIFTEEN THOUSAND DOLLARS, THE CREDIT SHALL BE IN THE

AMOUNT OF SEVENTY-FOUR DOLLARS;

(II) IF THE QUALIFIED INDIVIDUALS' AGGREGATE FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN FIFTEEN THOUSAND DOLLARS BUT NOT MORE THAN ONE HUNDRED THOUSAND DOLLARS, THE CREDIT SHALL BE IN THE AMOUNT OF ONE HUNDRED TWENTY DOLLARS;

(III) IF THE QUALIFIED INDIVIDUALS' AGGREGATE FEDERAL ADJUSTED GROSS INCOME IS GREATER THAN ONE HUNDRED THOUSAND DOLLARS, THE CREDIT SHALL BE IN THE AMOUNT OF ONE HUNDRED SIXTY DOLLARS.

(5) (a) ANY CREDIT ALLOWED PURSUANT TO THIS SECTION SHALL BE CLAIMED BY A QUALIFIED INDIVIDUAL AS DEFINED IN PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION BY TIMELY FILING A 1997 INCOME TAX RETURN WITH THE DEPARTMENT OF REVENUE IN COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE. THE DEPARTMENT OF REVENUE SHALL NOT ALLOW SAID CREDIT CLAIMED ON ANY 1997 INCOME TAX RETURN NOT FILED IN COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE. IN NO EVENT SHALL THE CREDIT CLAIMED BY A QUALIFIED INDIVIDUAL AS DEFINED IN PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION ON ANY 1997 INCOME TAX RETURN BE ALLOWED IF SAID RETURN IS FILED AFTER OCTOBER 15, 1998.

(b) ANY CREDIT ALLOWED PURSUANT TO THIS SECTION SHALL BE CLAIMED BY A QUALIFIED INDIVIDUAL AS DEFINED IN PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION BY FILING A 1997 INCOME TAX RETURN WITH THE DEPARTMENT OF REVENUE NO LATER THAN APRIL 15, 1998. THE DEPARTMENT OF REVENUE SHALL NOT ALLOW SAID CREDIT CLAIMED BY A QUALIFIED INDIVIDUAL AS DEFINED IN PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION ON ANY 1997 INCOME TAX RETURN FILED WITH THE DEPARTMENT OF REVENUE AFTER APRIL 15, 1998.

(6) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE INCOME TAXES OTHERWISE DUE ON THE CLAIMANT'S INCOME, THE AMOUNT OF THE CREDIT NOT USED AS AN OFFSET AGAINST INCOME TAXES MAY NOT BE CARRIED FORWARD AS A TAX CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY AND SHALL BE REFUNDED TO THE CLAIMANT.

(7) IN ADDITION TO ANY OTHER PENALTIES ALLOWED BY LAW, ANY PERSON WHO CLAIMS BUT IS NOT ELIGIBLE TO CLAIM THE CREDIT ALLOWED PURSUANT TO THIS SECTION SHALL BE SUBJECT TO THE CRIMINAL PENALTIES IMPOSED PURSUANT TO SECTION 39-21-118, AS APPLICABLE.

**SECTION 2. 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, 1997, the sum of four hundred thirty-two thousand eight hundred twenty-nine dollars (\$432,829) and 3.9 FTE, or so much thereof as may be necessary, for the implementation of this act. The authorization for 3.9 FTE specified in this appropriation is for temporary employees of the department of revenue, and such authorization shall terminate on June 30, 1998.

**SECTION 3. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: October 22, 1997