

CHAPTER 167

TAXATION

HOUSE BILL 00-1351

BY REPRESENTATIVES Hefley, Spradley, Decker, Johnson, Spence, Alexander, Bacon, Chavez, Clapp, Coleman, Dean, Fairbank, Gagliardi, Gordon, Gotlieb, Hagedorn, Hoppe, Larson, Lee, McKay, Miller, Mitchell, Morrison, Paschall, Pfiffner, Plant, Saliman, Scott, Tapia, Taylor, Tochtrop, Tool, Tupa, Veiga, Vigil, Webster, S. Williams, T. Williams, Windels, and Zimmerman;
also SENATORS Musgrave, Arnold, Chlouber, Dyer, Evans, Hernandez, Hillman, Linkhart, Martinez, Pascoe, Phillips, Reeves, and Rupert.

AN ACT

CONCERNING MODIFICATION OF THE STATE TAX POLICY RELATING TO CHILD CARE.

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

SECTION 1. Section 39-22-119 (2) and (3), Colorado Revised Statutes, are amended, and the said 39-22-119 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

39-22-119. Expenses related to child care - credits against state tax - refund of excess state revenues.

(2) If the credits allowed under subsections (1), ~~and~~ (1.5), AND (5) of this section exceed the income taxes due on the resident individual's income, the amount of the credits not used to offset income taxes shall not be carried forward as tax credits against the resident individual's subsequent years' income tax liability and shall be refunded to the individual.

(3) The child care expenses credits allowed under subsections (1), ~~and~~ (1.5), AND (5) of this section shall not be allowed to a resident individual who is receiving child care assistance from the state department of human services except to the extent of the taxpayer's unreimbursed out-of-pocket expenses that result in a federal credit for child care expenses.

(5) (a) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, AND SUBJECT TO THE PROVISIONS OF SUBSECTION (7) OF THIS SECTION, FOR ANY

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

INCOME TAX YEAR BEGINNING ON OR AFTER JANUARY 1, 2000, FOR WHICH CREDITS ARE ALLOWED PURSUANT TO SUBSECTION (1.5) OF THIS SECTION, IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE STATE CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE CONTROLLER CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR THE STATE FISCAL YEAR ENDING IN THAT INCOME TAX YEAR EXCEEDS THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20 (7) (a) OF ARTICLE X OF THE STATE CONSTITUTION AND THE VOTERS STATEWIDE EITHER HAVE NOT AUTHORIZED THE STATE TO RETAIN AND SPEND ALL OF THE EXCESS STATE REVENUES OR HAVE AUTHORIZED THE STATE TO RETAIN AND SPEND ONLY A PORTION OF THE EXCESS STATE REVENUES FOR THAT FISCAL YEAR, ANY RESIDENT INDIVIDUAL WHO CLAIMS A CREDIT FOR CHILD CARE EXPENSES ON THE INDIVIDUAL'S FEDERAL INCOME TAX RETURN SHALL BE ALLOWED ADDITIONAL CREDITS AGAINST THE INCOME TAXES DUE ON THE INDIVIDUAL'S INCOME UNDER THIS ARTICLE FOR EXPENSES RELATED TO CHILD CARE AS FOLLOWS:

(I) A RESIDENT INDIVIDUAL WHO CLAIMS A CREDIT FOR CHILD CARE EXPENSES ON THE INDIVIDUAL'S FEDERAL TAX RETURN SHALL BE ALLOWED A CREDIT IN AN AMOUNT EQUAL TO TWENTY PERCENT OF THE CREDIT FOR CHILD CARE EXPENSES CLAIMED ON THE INDIVIDUAL'S FEDERAL TAX RETURN IF THE INDIVIDUAL'S FEDERAL ADJUSTED GROSS INCOME IS SIXTY THOUSAND DOLLARS OR LESS OR SEVENTY PERCENT OF THE CREDIT FOR CHILD CARE EXPENSES CLAIMED ON THE INDIVIDUAL'S FEDERAL TAX RETURN IF THE INDIVIDUAL'S FEDERAL ADJUSTED GROSS INCOME IS MORE THAN SIXTY THOUSAND DOLLARS BUT LESS THAN SIXTY-FOUR THOUSAND ONE DOLLARS; EXCEPT THAT SUCH CREDIT SHALL BE REDUCED BY THE AMOUNT OF ANY CREDIT CLAIMED UNDER SUBPARAGRAPH (II) OR (III) OF THIS PARAGRAPH (a).

(II) A RESIDENT INDIVIDUAL WHO CLAIMS A CHILD TAX CREDIT FOR ONE OR MORE QUALIFYING CHILDREN PURSUANT TO SECTION 24 OF THE INTERNAL REVENUE CODE ON THE INDIVIDUAL'S FEDERAL TAX RETURN SHALL BE ALLOWED A CHILD TAX CREDIT AGAINST THE INCOME TAXES DUE ON THE INDIVIDUAL'S INCOME UNDER THIS ARTICLE IN THE AMOUNT OF ONE HUNDRED DOLLARS FOR EACH QUALIFYING CHILD WHO IS FIVE YEARS OF AGE OR UNDER AT THE END OF THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED IF THE INDIVIDUAL'S FEDERAL ADJUSTED GROSS INCOME IS SIXTY THOUSAND DOLLARS OR LESS OR THREE HUNDRED DOLLARS IF THE INDIVIDUAL'S FEDERAL ADJUSTED GROSS INCOME IS MORE THAN SIXTY THOUSAND DOLLARS BUT LESS THAN SIXTY-FOUR THOUSAND ONE DOLLARS.

(III) IN ADDITION TO THE CHILD TAX CREDIT ALLOWED PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), A RESIDENT INDIVIDUAL WHO IS LICENSED TO OPERATE A FAMILY CHILD CARE HOME OR OPERATES A FAMILY CHILD CARE HOME THAT IS LEGALLY EXEMPT FROM LICENSING REQUIREMENTS AS DEFINED IN SECTION 26-6-102 (4), C.R.S., AND WHO CLAIMS A CHILD TAX CREDIT PURSUANT TO SECTION 24 OF THE INTERNAL REVENUE CODE ON THE INDIVIDUAL'S FEDERAL TAX RETURN FOR ONE OR MORE OF THE RESIDENT INDIVIDUAL'S QUALIFYING CHILDREN WHO ARE IN FULL-TIME CARE OR BEFORE-AND-AFTER SCHOOL CARE IN THE FAMILY CHILD CARE HOME SHALL BE ALLOWED A CHILD TAX CREDIT AGAINST THE INCOME TAXES DUE ON THE INDIVIDUAL'S INCOME UNDER THIS ARTICLE IN THE AMOUNT OF THREE HUNDRED DOLLARS FOR EACH QUALIFYING CHILD WHO IS SIX YEARS OF AGE OR OLDER BUT LESS THAN THIRTEEN YEARS OF AGE AT THE END OF THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED.

(b) A RESIDENT INDIVIDUAL WHOSE FEDERAL ADJUSTED GROSS INCOME IS SIXTY-FOUR THOUSAND ONE DOLLARS OR MORE SHALL NOT BE ALLOWED A CREDIT UNDER THIS SUBSECTION (5).

(6) ANY CREDIT ALLOWED FOR ANY GIVEN INCOME TAX YEAR PURSUANT TO SUBSECTION (5) OF THIS SECTION SHALL BE PUBLISHED IN RULES PROMULGATED BY THE EXECUTIVE DIRECTOR IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AND SHALL BE INCLUDED IN INCOME TAX FORMS FOR THAT INCOME TAX YEAR.

(7) (a) IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE CONTROLLER CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR THE STATE FISCAL YEAR COMMENCING ON JULY 1, 1999, EXCEEDS THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20(7)(a) OF ARTICLE X OF THE STATE CONSTITUTION FOR THAT FISCAL YEAR BY LESS THAN TWO HUNDRED NINETY MILLION DOLLARS, THEN THE CREDITS AUTHORIZED BY SUBSECTION (5) OF THIS SECTION SHALL NOT BE ALLOWED FOR THE INCOME TAX YEAR COMMENCING ON JANUARY 1, 2000.

(b) IF, BASED ON THE FINANCIAL REPORT PREPARED BY THE CONTROLLER IN ACCORDANCE WITH SECTION 24-77-106.5, C.R.S., THE CONTROLLER CERTIFIES THAT THE AMOUNT OF STATE REVENUES FOR ANY STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2000, EXCEEDS THE LIMITATION ON STATE FISCAL YEAR SPENDING IMPOSED BY SECTION 20(7)(a) OF ARTICLE X OF THE STATE CONSTITUTION FOR THAT FISCAL YEAR BY LESS THAN TWO HUNDRED NINETY MILLION DOLLARS, AS ADJUSTED PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (7), THEN THE CREDITS AUTHORIZED BY SUBSECTION (5) OF THIS SECTION SHALL NOT BE ALLOWED FOR THE INCOME TAX YEAR IN WHICH SAID STATE FISCAL YEAR ENDED.

(c) (I) NO LATER THAN OCTOBER 1 OF ANY GIVEN CALENDAR YEAR COMMENCING ON OR AFTER JANUARY 1, 2001, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL ANNUALLY ADJUST THE DOLLAR AMOUNT SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (7) TO REFLECT THE RATE OF GROWTH OF COLORADO PERSONAL INCOME FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH SUCH ADJUSTMENT IS MADE. FOR PURPOSES OF THIS SUBPARAGRAPH (I), "THE RATE OF GROWTH OF COLORADO PERSONAL INCOME" MEANS THE PERCENTAGE CHANGE BETWEEN THE MOST RECENT PUBLISHED ANNUAL ESTIMATE OF TOTAL PERSONAL INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY REPORTED BY THE BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES DEPARTMENT OF COMMERCE FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH THE ADJUSTMENT IS MADE AND THE MOST RECENT PUBLISHED ANNUAL ESTIMATE OF TOTAL PERSONAL INCOME FOR COLORADO, AS DEFINED AND OFFICIALLY REPORTED BY THE BUREAU OF ECONOMIC ANALYSIS IN THE UNITED STATES DEPARTMENT OF COMMERCE FOR THE CALENDAR YEAR PRIOR TO THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR IN WHICH THE ADJUSTMENT IS MADE.

(II) UPON CALCULATING THE ADJUSTMENT OF SAID DOLLAR AMOUNT IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH (c), THE EXECUTIVE DIRECTOR SHALL NOTIFY IN WRITING THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL CREATED PURSUANT TO SECTION 2-3-301 (1), C.R.S., OF THE ADJUSTED DOLLAR AMOUNT AND THE BASIS FOR THE ADJUSTMENT. SUCH WRITTEN NOTIFICATION SHALL BE GIVEN WITHIN FIVE WORKING DAYS AFTER SUCH

CALCULATION IS COMPLETED, BUT SUCH WRITTEN NOTIFICATION SHALL BE GIVEN NO LATER THAN OCTOBER 1 OF THE CALENDAR YEAR.

(III) IT IS THE FUNCTION OF THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL TO REVIEW AND APPROVE OR DISAPPROVE SUCH ADJUSTMENT OF SAID DOLLAR AMOUNT WITHIN TWENTY DAYS AFTER RECEIPT OF SUCH WRITTEN NOTIFICATION FROM THE EXECUTIVE DIRECTOR. ANY ADJUSTMENT THAT IS NOT APPROVED OR DISAPPROVED BY THE EXECUTIVE COMMITTEE WITHIN SAID TWENTY DAYS SHALL BE AUTOMATICALLY APPROVED; EXCEPT THAT, IF WITHIN SAID TWENTY DAYS THE EXECUTIVE COMMITTEE SCHEDULES A HEARING ON SUCH ADJUSTMENT, SUCH AUTOMATIC APPROVAL SHALL NOT OCCUR UNLESS THE EXECUTIVE COMMITTEE DOES NOT APPROVE OR DISAPPROVE SUCH ADJUSTMENT AFTER THE CONCLUSION OF SUCH HEARING. ANY HEARING CONDUCTED BY THE EXECUTIVE COMMITTEE PURSUANT TO THIS SUBPARAGRAPH (III) SHALL BE CONCLUDED NO LATER THAN TWENTY-FIVE DAYS AFTER RECEIPT OF SUCH WRITTEN NOTIFICATION FROM THE EXECUTIVE DIRECTOR.

(IV) (A) IF THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL DISAPPROVES ANY ADJUSTMENT OF SAID DOLLAR AMOUNT CALCULATED BY THE EXECUTIVE DIRECTOR PURSUANT TO THIS PARAGRAPH (c), THE EXECUTIVE COMMITTEE SHALL SPECIFY SUCH ADJUSTED DOLLAR AMOUNT TO BE UTILIZED BY THE EXECUTIVE DIRECTOR. ANY ADJUSTED DOLLAR AMOUNT SPECIFIED BY THE EXECUTIVE COMMITTEE PURSUANT TO THIS SUB-SUBPARAGRAPH (A) SHALL BE CALCULATED IN ACCORDANCE WITH THE PROVISIONS OF THIS PARAGRAPH (c).

(B) FOR THE PURPOSE OF DETERMINING WHETHER THE CREDITS AUTHORIZED BY SUBSECTION (5) OF THIS SECTION ARE TO BE ALLOWED FOR ANY GIVEN INCOME TAX YEAR, THE EXECUTIVE DIRECTOR SHALL NOT UTILIZE ANY ADJUSTED DOLLAR AMOUNT THAT HAS NOT BEEN APPROVED PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH (c) OR OTHERWISE SPECIFIED PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (IV).

(8) IF ONE OR MORE BALLOT QUESTIONS ARE SUBMITTED TO THE VOTERS AT A STATEWIDE ELECTION TO BE HELD IN NOVEMBER OF ANY CALENDAR YEAR COMMENCING ON OR AFTER JANUARY 1, 2000, THAT SEEK AUTHORIZATION FOR THE STATE TO RETAIN AND SPEND ALL OR ANY PORTION OF THE AMOUNT OF EXCESS STATE REVENUES FOR THE STATE FISCAL YEAR ENDING DURING SAID CALENDAR YEAR, THE EXECUTIVE DIRECTOR SHALL NOT DETERMINE WHETHER THE CREDITS AUTHORIZED BY SUBSECTION (5) OF THIS SECTION SHALL BE ALLOWED AND SHALL NOT PROMULGATE RULES CONTAINING SAID CREDITS UNTIL THE IMPACT OF THE RESULTS OF SAID ELECTION ON THE AMOUNT OF THE EXCESS STATE REVENUES TO BE REFUNDED IS ASCERTAINED.

(9) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE CHILD CARE TAX CREDIT AND CHILD TAX CREDIT AUTHORIZED BY SUBSECTION (5) OF THIS SECTION ARE REASONABLE METHODS OF REFUNDING A PORTION OF THE EXCESS STATE REVENUES REQUIRED TO BE REFUNDED IN ACCORDANCE WITH SECTION 20 (7) (d) OF ARTICLE X OF THE STATE CONSTITUTION.

SECTION 2. 39-22-121 (1), Colorado Revised Statutes, is amended, and the said 39-22-121 is further amended BY THE ADDITION OF A NEW SUBSECTION,

to read:

39-22-121. Credit for child care facilities - repeal. (1) For THE income tax ~~years~~ YEAR commencing on or after January 1, 1999, BUT PRIOR TO JANUARY 1, 2000, any taxpayer who makes a monetary or in-kind contribution to promote child care in the state shall be allowed a credit against the income tax imposed by article 22 of this title in an amount equal to twenty-five percent of the total value of the contribution except as otherwise provided in subsection (5) of this section.

(1.5) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2000, ANY TAXPAYER WHO MAKES A MONETARY CONTRIBUTION TO PROMOTE CHILD CARE IN THE STATE SHALL BE ALLOWED A CREDIT AGAINST THE INCOME TAX IMPOSED BY ARTICLE 22 OF THIS TITLE IN AN AMOUNT EQUAL TO FIFTY PERCENT OF THE TOTAL VALUE OF THE CONTRIBUTION EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5) OF THIS SECTION.

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: May 23, 2000