

## CHAPTER 187

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**TAXATION**

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**HOUSE BILL 01-1313**

BY REPRESENTATIVE(S) Jahn, Alexander, Bacon, Borodkin, Boyd, Chavez, Coleman, Daniel, Fairbank, Groff, Hodge, Larson, Lawrence, Lee, Mace, Marshall, Miller, Ragsdale, Sanchez, Scott, Spradley, Stengel, Tapia, Vigil, Weddig, and Williams S.; also SENATOR(S) Linkhart, Pascoe, and Windels.

**AN ACT**

CONCERNING THE CREATION OF A COLORADO INCOME TAX CREDIT FOR INDIVIDUAL TAXPAYERS WHO INCUR NONREIMBURSED EXPENSES IN CONNECTION WITH PROVIDING FOSTER CARE FOR CHILDREN WHO ARE UNDER THE AGE OF EIGHTEEN YEARS.

*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:

**39-22-127. Credit for providing foster care - refund of excess state revenues for fiscal years commencing on or after January 1, 2003 - legislative declaration.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CHILD IN FOSTER CARE" MEANS A CHILD WHO IS UNDER THE AGE OF EIGHTEEN YEARS, LIVES IN A FOSTER CARE HOME, IS PROVIDED WITH TWENTY-FOUR HOUR FAMILY CARE IN THE FOSTER CARE HOME, AND, EXCEPT IN THE CASE OF RELATIVE CARE, IS NOT RELATED TO THE INDIVIDUAL OR INDIVIDUALS WHO OPERATE SUCH FOSTER CARE HOME.

(b) "FOSTER CARE HOME" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 26-6-102 (4.5), C.R.S.

(2) SUBJECT TO THE PROVISIONS OF SUBSECTION (5) OF THIS SECTION, FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2001, 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 ENDING IN THAT INCOME TAX YEAR EXCEEDS

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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.*

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, A CREDIT AGAINST THE INCOME TAX IMPOSED BY THIS ARTICLE IN THE AMOUNT OF FIVE HUNDRED DOLLARS PER FOSTER CARE HOME SHALL BE ALLOWED TO ANY RESIDENT INDIVIDUAL TAXPAYER WHO OPERATES A FOSTER CARE HOME IF THE TAXPAYER HAS INCURRED ANY NONREIMBURSED EXPENSE IN CONNECTION WITH OPERATING THE FOSTER CARE HOME DURING THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED AND IF THE TAXPAYER HAS PROVIDED ONE OR MORE CHILDREN IN FOSTER CARE WITH TWENTY-FOUR HOUR FAMILY CARE IN THE TAXPAYER'S FOSTER CARE HOME FOR ONE HUNDRED EIGHTY DAYS OF THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED.

(3) IF THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THIS SECTION EXCEEDS THE AMOUNT OF INCOME TAXES OTHERWISE DUE ON THE TAXPAYER'S INCOME IN THE INCOME TAX YEAR FOR WHICH THE CREDIT IS BEING CLAIMED, THE AMOUNT OF THE CREDIT NOT USED AS AN OFFSET AGAINST INCOME TAXES IN SAID INCOME TAX YEAR SHALL NOT BE CARRIED FORWARD AS A TAX CREDIT AGAINST THE INDIVIDUAL TAXPAYER'S SUBSEQUENT YEAR'S INCOME TAX LIABILITY AND SHALL BE REFUNDED TO THE INDIVIDUAL.

(4) UPON REQUEST FROM THE DEPARTMENT OF REVENUE, THE DEPARTMENT OF HUMAN SERVICES SHALL PROVIDE TO THE DEPARTMENT OF REVENUE A LIST OF THE HOUSEHOLDS THAT ARE FOSTER CARE HOMES PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION. THE LIST SHALL INCLUDE THE SOCIAL SECURITY NUMBER OF ANY INDIVIDUAL IN THE HOUSEHOLD WHO IS RESPONSIBLE FOR THE OPERATION OF THE FOSTER CARE HOME.

(5) (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, 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 MILLION DOLLARS, THEN THE CREDIT AUTHORIZED BY SUBSECTION (2) OF THIS SECTION SHALL NOT BE ALLOWED FOR THE INCOME TAX YEAR COMMENCING ON JANUARY 1, 2001.

(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, 2001, 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 MILLION DOLLARS, AS ADJUSTED PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (5), THEN THE CREDIT AUTHORIZED BY SUBSECTION (2) 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, 2002, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL ANNUALLY ADJUST THE DOLLAR AMOUNT SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (5) 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. THE WRITTEN NOTIFICATION SHALL BE GIVEN WITHIN FIVE WORKING DAYS AFTER SUCH CALCULATION IS COMPLETED, BUT THE 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 THE 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, AUTOMATIC APPROVAL SHALL NOT OCCUR UNLESS THE EXECUTIVE COMMITTEE DOES NOT APPROVE OR DISAPPROVE SUCH ADJUSTMENT AT THE CONCLUSION OF THE 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 THE 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 THE 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 SUBSECTION (5).

(B) FOR THE PURPOSE OF DETERMINING WHETHER THE CREDIT AUTHORIZED BY SUBSECTION (2) OF THIS SECTION IS 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).

(V) 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, 2001, 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 CREDIT AUTHORIZED BY SUBSECTION (2) OF THIS SECTION SHALL BE ALLOWED AND SHALL NOT PROMULGATE RULES CONTAINING THE AMOUNT OF SAID CREDIT UNTIL THE IMPACT OF THE RESULTS OF SAID ELECTION ON THE AMOUNT OF THE EXCESS STATE REVENUES TO BE REFUNDED IS ASCERTAINED.

(6) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE CREDIT AUTHORIZED BY SUBSECTION (2) OF THIS SECTION IS A REASONABLE METHOD 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. 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 30, 2001