

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 15-0447.01 Ed DeCecco x4216

HOUSE BILL 15-1195

HOUSE SPONSORSHIP

Kagan,

SENATE SPONSORSHIP

(None),

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE EARLIER COMMENCEMENT OF THE EARNED INCOME
102 TAX CREDIT ALLOWED AGAINST THE STATE INCOME TAX.

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://www.leg.state.co.us/billsummaries>.)

Under current law, there are 2 earned income tax credits allowed against the state income tax. One is a mechanism to refund state revenues in excess of the constitutional spending limitation (EITC refund mechanism), while the other is an ordinary income tax credit (permanent EITC). The EITC refund mechanism only applies if the excess state revenues are above a specified amount, and it is only for one income tax

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

year. If refunds are made through the EITC refund mechanism, then in the next income tax year and all future income tax years thereafter, the permanent EITC is available to eligible taxpayers. Without this trigger, the permanent EITC will not apply.

Based on legislative council staff's December forecast of excess state revenues for the 2015-16 fiscal year, tax credits would be available through the EITC refund mechanism for the 2016 income tax year, and the permanent EITC would apply for all income tax years beginning with the 2017 income tax year.

Section 1 of the bill permits eligible taxpayers to claim the permanent EITC beginning with the 2015 income tax year. There are no other changes to the permanent EITC. **Section 3** repeals the EITC refund mechanism, and **section 2** makes a conforming amendment to another refund mechanism that applied after the EITC refund mechanism to reflect this repeal.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-22-123.5, **amend**
3 (1) (e) and (2); and **repeal** (1) (f), (1) (g), and (3) as follows:

4 **39-22-123.5. Earned income tax credit - not a refund of excess**
5 **state revenues - trigger - legislative declaration.** (1) The general
6 assembly hereby finds and declares that:

7 (e) The credit has a positive economic impact on local economies
8 and businesses because it puts more money in the hands of low- and
9 middle-income working people who spend the money on immediate
10 needs, such as groceries, school supplies, car repairs, rent, and health
11 care; AND

12 ~~(f) The Colorado earned income tax credit created in section~~
13 ~~39-22-123 is ten percent of the federal earned income tax credit, but it is~~
14 ~~a mechanism to refund excess state revenues as required by section 20 of~~
15 ~~article X of the state constitution;~~

16 ~~(g) This existing credit has not been in effect since 2001 because~~
17 ~~the refund has not been triggered, and~~

1 (2) For an income tax year ~~specified in subsection (3) of this~~
2 ~~section~~ YEARS COMMENCING ON OR AFTER JANUARY 1, 2015, a resident
3 individual who claims an earned income tax credit on the individual's
4 federal tax return is allowed an earned income tax credit against the taxes
5 due under this article that is equal to ten percent of the federal credit that
6 the resident individual claimed on his or her federal tax return for the
7 same tax year.

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

13 **SECTION 2.** In Colorado Revised Statutes, 39-22-627, **amend**
14 (1) (b), (3), and (6); and **repeal** (9) as follows:

15 **39-22-627. Temporary adjustment of rate of income tax -**
16 **refund of excess state revenues - authority of executive director.**

17 (1) (b) In order for the provisions of paragraph (a) of this subsection (1)
18 to take effect, the amount of state revenues required to be refunded for the
19 specified state fiscal year ~~shall~~ **MUST** exceed the ~~total of the adjusted~~
20 ~~amount set forth in section 39-22-123 (4) (c), plus the~~ estimated amount
21 by which state revenues would be decreased as the result of a reduction
22 in the state income tax rate from four and sixty-three one-hundredths
23 percent to four and one-half percent of federal taxable income, as
24 determined pursuant to this section.

25 (3) If one or more ballot questions are submitted to the voters at
26 a statewide election to be held in November of any given calendar year
27 that seek authorization for the state to retain and spend all or any portion

1 of the amount of excess state revenues for the state fiscal year ending
2 during said calendar year, the executive director shall not reduce the state
3 income tax rate until the results of said election are known so that the
4 state income tax rate may be reduced only if, after the results of said
5 election, the amount of excess state revenues required to be refunded for
6 the state fiscal year exceeds the ~~total of the adjusted amount set forth in~~
7 ~~section 39-22-123 (4) (c), plus the~~ estimated amount by which state
8 revenues would be decreased as a result of a reduction in the state income
9 tax rate from four and sixty-three one-hundredths percent to four and
10 one-half percent of federal taxable income pursuant to this section.

11 (6) If, based on the financial report prepared by the controller in
12 accordance with section 24-77-106.5, C.R.S., the controller certifies that
13 the amount of the state revenues for any state fiscal year commencing on
14 or after July 1, 2010, exceeds the limitation on state fiscal year spending
15 imposed by section 20 (7) (a) of article X of the state constitution for that
16 state fiscal year and exceeds the amount of excess state revenues that the
17 voters statewide have authorized the state to retain and spend for that
18 state fiscal year by less than ~~the total of the adjusted amount set forth in~~
19 ~~section 39-22-123 (4) (c), plus the~~ estimated amount by which state
20 revenues would be decreased as the result of a reduction in the state
21 income tax rate from four and sixty-three one-hundredths percent to four
22 and one-half percent of federal taxable income as calculated by the
23 executive director pursuant to subsection (2) of this section, then the
24 reduction in the state income tax rate allowed pursuant to subsection (1)
25 of this section ~~shall~~ IS not ~~be~~ allowed for the income tax year
26 commencing during the calendar year in which the state fiscal year ended.

27 (9) ~~If, by operation of section 39-22-123 (6), excess state revenues~~

1 are no longer refunded through an earned income tax credit, the total of
2 the adjusted amount set forth in section 39-22-123 (4) (c) is not added to
3 the estimated amount by which state revenues would be decreased as the
4 result of a reduction in the state income tax rate for purposes of the
5 calculations set forth in paragraph (b) of subsection (1) and subsections
6 (3) and (6) of this section.

7 **SECTION 3.** In Colorado Revised Statutes, **repeal** 39-22-123.

8 **SECTION 4. Effective date.** This act takes effect July 1, 2015.

9 **SECTION 5. Safety clause.** The general assembly hereby finds,
10 determines, and declares that this act is necessary for the immediate
11 preservation of the public peace, health, and safety.