Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

DRAFT
10.8.13

BILL 10

LLS NO. 14-0161.01 Ed DeCecco x4216 INTERIM COMMITTEE BILL

Economic Opportunity Poverty Reduction Task Force

SHORT TITLE: "Income Tax Credit For Child Care Expenses"

A BILL FOR AN ACT

101 CONCERNING AN INCOME TAX CREDIT FOR CHILD CARE EXPENSES FOR
102 A RESIDENT INDIVIDUAL WITH A FEDERAL ADJUSTED GROSS
103 INCOME OF TWENTY-FIVE THOUSAND DOLLARS OR LESS.

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.)

Economic Opportunity Poverty Reduction Task Force. Currently, if a resident individual is allowed a federal income tax credit for his or her child care expenses, the individual may claim a state income tax credit for the same expenses. The amount of the state credit is a

percentage of the federal credit claimed. Because the federal credit is not refundable, the amount of an individual's federal tax liability may limit the amount of an individual's state tax credit.

The bill creates a new state child care expenses tax credit (state credit) for a resident individual who has a federal adjusted gross income of $25,000 or less. The amount of the state credit is equal to 25% of the child care expenses that the individual incurred during the taxable year if:

- The expenses are for the care of a dependent of the taxpayer who is less than 13 years old; and
- The individual would be allowed a federal credit for the expenses if he or she had sufficient tax liability to claim the credit.

The state credit is not based on the amount of any federal credit claimed, but its maximum amount is $500 for a single dependent or $1,000 for 2 or more dependents. Like the existing state credit, this tax credit is refundable, which means that the credit amount that exceeds the resident individual's income taxes due is refunded to the individual.

Similar to the federal credit, the amount of the state credit may not exceed a resident individual's earned income for the year. Also like the federal credit, an individual is not permitted a state credit unless he or she provides the tax identification number for the child and child care provider. The latter requirement does not apply if the individual is able to show that he or she exercised due diligence in trying to provide the identification number.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-22-119, **amend**
3 (1) (a) (I) and (1) (b) as follows:

4 **39-22-119. Expenses related to child care - credits against state**
5 **tax.** (1) (a) For income tax years beginning on and after January 1, 1996,
6 if a resident individual claims a credit for child care expenses on the
7 individual's federal tax return, the individual shall be allowed a child care
8 expenses credit against the income taxes due on the individual's income
9 under this article calculated as follows:

10 (I) EXCEPT AS SET FORTH IN PARAGRAPH (b) OF THIS SUBSECTION
11 (1), if the resident individual's federal adjusted gross income is

1 twenty-five thousand dollars or less, the credit shall be in an amount equal
2 to fifty percent of the credit for child care expenses claimed on the
3 resident individual's federal tax return. THIS SUBPARAGRAPH (I) IS
4 REPEALED, EFFECTIVE JANUARY 1, 2015.
5 (b) If the resident individual's federal adjusted gross income is
6 sixty thousand one dollars or more, the resident individual ~~shall not be~~ IS
7 NOT allowed a credit under this subsection (1). FOR INCOME TAX YEARS
8 COMMENCING ON OR AFTER JANUARY 1, 2014, A RESIDENT INDIVIDUAL
9 WHOSE FEDERAL ADJUSTED GROSS INCOME IS TWENTY-FIVE THOUSAND
10 DOLLARS OR LESS IS NOT ALLOWED A CREDIT UNDER THIS SUBSECTION (1).
11 **SECTION 2.** In Colorado Revised Statutes, **add** 39-22-119.5 as
12 follows:
13 **39-22-119.5. Child care expenses tax credit - legislative**
14 **declaration - definitions.** (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS
15 AND DECLARES THAT:
16 (I) COLORADO FAMILIES AND THE STATE ECONOMY THRIVE WHEN
17 PARENTS ARE ABLE TO WORK;
18 (II) WHILE RESEARCH SHOWS THAT HIGH-QUALITY CHILD CARE
19 CONTRIBUTES TO ECONOMIC MOBILITY, CHILD CARE CAN BE COST
20 PROHIBITIVE FOR LOW-INCOME WORKING PARENTS;
21 (III) THE GENERAL ASSEMBLY CREATED THE CHILD CARE EXPENSES
22 TAX CREDIT IN SECTION 39-22-119 IN 1996 TO MAKE CHILD CARE MORE
23 AFFORDABLE FOR WORKING FAMILIES;
24 (IV) THE CREDIT IN SECTION 39-22-119 IS CURRENTLY BASED ON
25 THE AMOUNT CLAIMED FOR A SIMILAR FEDERAL CREDIT;
26 (V) AS A RESULT, SOME LOW-INCOME FAMILIES ARE NOT
27 RECEIVING THE STATE CHILD CARE EXPENSES TAX CREDIT BECAUSE THEY

1 FAIL TO FILE A FEDERAL RETURN OR, BASED ON THEIR INCOME TAXES
2 OWED, ARE INELGIBLE FOR A FEDERAL CREDIT; AND
3 (VI) AS A RESULT, THE STATE TAX CREDIT IS UNINTENTIONALLY
4 UNFAIR AND REGRESSIVE.
5 (b) NOW, THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT
6 THE INTENDED PURPOSE OF THE TAX EXPENDITURE IN THIS SECTION IS TO
7 FIX THE COLORADO CHILD CARE EXPENSES INCOME TAX CREDIT SO THAT
8 ALL LOW-INCOME WORKING FAMILIES ARE ABLE TO CLAIM THE CREDIT
9 REGARDLESS OF THE AMOUNT OF THEIR FEDERAL CHILD CARE EXPENSES
10 CREDIT.
11 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
12 REQUIRES:
13 (a) "CREDIT" MEANS THE CHILD CARE EXPENSES TAX CREDIT
14 CREATED IN THIS SECTION.
15 (b) "DEPENDENT" HAS THE SAME MEANING AS IN SECTION 152 (a)
16 (1) OF THE INTERNAL REVENUE CODE, OR ANY SUCCESSOR SECTION.
17 (3) (a) FOR INCOME TAX YEARS BEGINNING ON AND AFTER
18 JANUARY 1, 2014, A RESIDENT INDIVIDUAL IS ALLOWED A CREDIT AGAINST
19 THE TAXES DUE UNDER THIS ARTICLE FOR CHILD CARE EXPENSES THAT THE
20 INDIVIDUAL INCURRED DURING THE TAXABLE YEAR IF:
21 (I) THE INDIVIDUAL HAS AN ADJUSTED GROSS INCOME OF
22 TWENTY-FIVE THOUSAND DOLLARS OR LESS;
23 (II) THE EXPENSES ARE FOR THE CARE OF A DEPENDENT OF THE
24 TAXPAYER WHO IS LESS THAN THIRTEEN YEARS OLD; AND
25 (III) THE INDIVIDUAL WOULD BE ALLOWED A CREDIT FOR THE
26 EXPENSES UNDER SECTION 21 OF THE INTERNAL REVENUE CODE, OR ANY
27 SUCCESSOR SECTION, IF HE OR SHE HAD SUFFICIENT TAX LIABILITY TO

1 CLAIM THE CREDIT.

2 (b) THE CREDIT IS EQUAL TO TWENTY-FIVE PERCENT OF THE
3 RESIDENT INDIVIDUAL'S CHILD CARE EXPENSES; EXCEPT THAT THE
4 MAXIMUM AMOUNT OF A CREDIT THAT A RESIDENT INDIVIDUAL IS
5 ALLOWED UNDER THIS SECTION IS:

6 (I) FIVE HUNDRED DOLLARS FOR A SINGLE DEPENDENT; OR

7 (II) ONE THOUSAND DOLLARS FOR TWO OR MORE DEPENDENTS.

8 (c) THE AMOUNT OF THE CREDIT THAT EXCEEDS THE RESIDENT
9 INDIVIDUAL'S INCOME TAXES DUE IS REFUNDED TO THE INDIVIDUAL.

10 (4) THE AMOUNT OF AN INDIVIDUAL'S CHILD CARE EXPENSES
11 INCURRED DURING A TAXABLE YEAR THAT MAY BE THE BASIS OF THE
12 CREDIT SHALL NOT EXCEED:

13 (a) IN THE CASE OF AN INDIVIDUAL WHO FILES A SINGLE RETURN,
14 THE INDIVIDUAL'S EARNED INCOME FOR THE YEAR; OR

15 (b) IN THE CASE OF TWO INDIVIDUALS WHO FILE A JOINT RETURN,
16 THE LESSER OF EITHER INDIVIDUAL'S EARNED INCOME FOR THE YEAR.

17 (5) (a) EXCEPT AS SET FORTH IN PARAGRAPH (b) OF THIS
18 SUBSECTION (5), A RESIDENT INDIVIDUAL IS NOT ALLOWED A CREDIT FOR
19 ANY AMOUNT PAID TO ANY PERSON WHO PROVIDES CHILD CARE UNLESS:

20 (I) THE NAME, ADDRESS, AND TAXPAYER IDENTIFICATION NUMBER
21 OF THE PERSON ARE INCLUDED ON THE RESIDENT INDIVIDUAL'S RETURN;
22 OR

23 (II) IF THE PERSON IS AN ORGANIZATION DESCRIBED IN SECTION
24 501 (c) (3) OF THE INTERNAL REVENUE CODE, OR ANY SUCCESSOR SECTION,
25 AND EXEMPT FROM TAX UNDER SECTION 501 (a) OF THE INTERNAL
26 REVENUE CODE, OR ANY SUCCESSOR SECTION, THE NAME AND ADDRESS OF
27 THE PERSON ARE INCLUDED ON THE RESIDENT INDIVIDUAL'S RETURN.

1 (b) IF THE RESIDENT INDIVIDUAL DOES NOT PROVIDE THE
2 TAXPAYER IDENTIFICATION NUMBER BUT IS ABLE TO SHOW THAT HE OR
3 SHE EXERCISED DUE DILIGENCE IN ATTEMPTING TO PROVIDE THE REQUIRED
4 INFORMATION, THE INDIVIDUAL MAY CLAIM THE CREDIT.
5 (c) A RESIDENT INDIVIDUAL MAY NOT CLAIM A CREDIT WITH
6 RESPECT TO A DEPENDENT UNLESS THE RESIDENT INDIVIDUAL INCLUDES
7 THE DEPENDENT'S NAME AND TAXPAYER IDENTIFICATION NUMBER ON THE
8 INDIVIDUAL'S RETURN.
9 (6) IN THE CASE OF A PART-YEAR RESIDENT, THE CREDIT IS
10 APPORTIONED IN THE RATIO DETERMINED UNDER SECTION 39-22-110 (1).
11 **SECTION 3. Act subject to petition - effective date.** This act
12 takes effect at 12:01 a.m. on the day following the expiration of the
13 ninety-day period after final adjournment of the general assembly (August
14 6, 2014, if adjournment sine die is on May 4, 2014); except that, if a
15 referendum petition is filed pursuant to section 1 (3) of article V of the
16 state constitution against this act or an item, section, or part of this act
17 within such period, then the act, item, section, or part will not take effect
18 unless approved by the people at the general election to be held in
19 November 2014 and, in such case, will take effect on the date of the
20 official declaration of the vote thereon by the governor.