

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



HOUSE BILL 25-1335

BY REPRESENTATIVE(S) Sirota and Taggart, Bird, Joseph, McCluskie;
also SENATOR(S) Bridges and Kirkmeyer, Amabile, Kipp.

CONCERNING THE DETERMINATION OF THE EXTENT OF THE AVAILABILITY OF
INCOME TAX CREDITS THAT ARE CONTINGENT UPON THE COMPOUND
ANNUAL GROWTH RATE.

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

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) In the 2024 regular session, the general assembly created the family affordability tax credit and expanded the earned income tax credit;

(b) Both tax credits were unconditionally available for state income tax year 2024 and are only available conditionally, and in conditional amounts, beginning in state income tax year 2025;

(c) Whether the tax credits are available and the amounts of the credits that are available are determined in part by the compound annual growth rate between certain state revenue in state fiscal year 2024-25 and

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

the corresponding state revenue in the state fiscal year that begins in the relevant state income tax year;

(d) It was the general assembly's intent, in using state fiscal year 2024-25 state revenue as an element of determining the extent to which the tax credits are available, to use a state fiscal year in which state revenue was sufficient not to limit the general assembly's ability to appropriate money from the general fund;

(e) The most recent revenue forecasts prepared by legislative council staff and the office of state planning and budgeting acknowledge a significant possibility that, contrary to the general assembly's intent, using state fiscal year 2024-25 state revenue as an element of determining the extent to which the tax credits are available may limit the general assembly's ability to appropriate money from the general fund;

(f) Using state fiscal year 2024-25 state revenue as forecast in the March 2024 office of state planning and budgeting revenue forecast in determining the extent to which the tax credits are available would not similarly limit the general assembly's ability to appropriate money from the general fund;

(g) This House Bill 25-1335 modifies both tax credits so that whether the tax credits are available and the amounts of the credits that are available are determined based on the compound annual growth rate between certain state revenue in state fiscal year 2024-25 as forecast in the March 2024 office of state planning and budgeting revenue forecast and the corresponding state fiscal year that begins in the relevant state income tax year;

(h) The primary purpose of the modification of these tax credits is to better effectuate the intent of the general assembly in creating the family affordability tax credit and expanding the earned income tax credit;

(i) Any state revenue gain that results from the modification of these tax expenditures is de minimis and incidental to the primary purpose of modifying these tax credits; and

(j) Therefore, consistent with the Colorado supreme court's holding in *TABOR Foundation v. Reg'l Transp. Dist.*, 2018 CO 29, that legislation

that causes only an incidental and de minimis tax revenue increase does not amount to a new tax or a tax policy change that requires prior voter approval pursuant to section 20 of article X of the state constitution, the modifications to these tax credits are not tax policy changes that require voter approval.

SECTION 2. In Colorado Revised Statutes, 39-22-130, **amend** (2)(b)(II)(C) as follows:

39-22-130. Family affordability tax credit - tax preference performance statement - legislative declaration - definitions - repeal.
(2) As used in this section, unless the context otherwise requires:

(b) (II) As used in this subsection (2)(b):

(C) "BV" means ~~on or before December 31, 2024,~~ the estimate of the state's nonexempt revenue for state fiscal year 2024-25 included in ~~the applicable forecast excluding the projected aggregate amount of the tax credit allowed pursuant to this section and the projected aggregate amount of the increased portion of the earned income tax credit allowed pursuant to section 39-22-123.5 (3.5), created in House Bill 24-1134, enacted in 2024, for the given income tax year, and after December 31, 2024,~~ the amount of the state's nonexempt revenue for state fiscal year 2024-25 excluding the aggregate amount of the tax credit allowed pursuant to this section and the aggregate amount of the increased portion of the earned income tax credit allowed pursuant to section 39-22-123.5 (3.5), created in House Bill 24-1134, enacted in 2024, for the given income tax year THE 2024 OFFICE OF STATE PLANNING AND BUDGETING MARCH REVENUE FORECAST.

SECTION 3. In Colorado Revised Statutes, 39-22-123.5, **amend** (3.5)(a)(III) as follows:

39-22-123.5. Earned income tax credit - legislative declaration - repeal. (3.5) (a) As used in this subsection (3.5), unless the context otherwise requires:

(III) "BV" means ~~on or before December 31, 2024,~~ the estimate of the state's nonexempt revenue for state fiscal year 2024-25 included in ~~the applicable forecast excluding the projected aggregate amount of the~~

~~increased portion of the earned income tax credit allowed pursuant to subsection (3.5)(b) or (3.5)(c) of this section and the projected aggregate amount of the credit allowed pursuant to section 39-22-130, created in House Bill 24-1311, enacted in 2024, for the given income tax year, and after December 31, 2024, the amount of the state's nonexempt revenue for state fiscal year 2024-25 excluding the aggregate amount of the increased portion of the earned income tax credit allowed pursuant to subsection (3.5)(b) or (3.5)(c) of this section and the aggregate amount of the credit allowed pursuant to section 39-22-130, created in House Bill 24-1311, enacted in 2024, for the given income tax year~~ THE 2024 OFFICE OF STATE PLANNING AND BUDGETING MARCH REVENUE FORECAST.

SECTION 4. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for

the support and maintenance of the departments of the state and state institutions.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO