

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-0419.01 Esther van Mourik x4215

HOUSE BILL 16-1065

HOUSE SPONSORSHIP

Conti,

SENATE SPONSORSHIP

(None),

House Committees

Health, Insurance, & Environment
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF AN INCOME TAX CREDIT FOR SENIOR**
102 **HOME HEALTH CARE.**

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>.)

The bill creates an income tax credit to assist a qualifying senior with seeking health care in his or her home. In the first 2-years, the tax credit is for a percentage of the costs incurred by the qualifying senior for home modifications in each income tax year. In the next 2-years, the tax credit is for a percentage of the costs incurred by the qualifying senior for home modifications or home health care services in each income tax year.

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.*

In the following 2-years, the tax credit is for a percentage of the costs incurred by the qualifying senior for home modifications, home health care services, durable medical equipment, or telehealth equipment in each income tax year. In each year the income tax credit is subject to a maximum amount.

The bill also specifies that if the revenue estimate prepared by the staff of the legislative council in December 2015 and each December thereafter indicates that the amount of the total general fund revenues, including the impact of the tax credit allowed in this bill and including the impact of any other tax expenditures that have the same trigger, for that particular fiscal year will not be sufficient to grow the total state general fund appropriations by 6% over such appropriations for the previous fiscal year, then the credit is not allowed for any income tax year commencing during the calendar year following the year in which the estimate is prepared; except that any taxpayer who would have been eligible to claim a credit in the income tax year in which the credit is not allowed is allowed to claim the credit earned in such income tax year in the next income tax year in which the estimate indicates that the amount of the total general fund revenues will be sufficient to grow the total state general fund appropriations by 6% over such appropriations for the previous fiscal year.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 39-22-538 as
3 follows:

4 **39-22-538. Credit for home health care equipment and**
5 **services - legislative declaration - definitions - repeal.** (1) THE
6 GENERAL ASSEMBLY DECLARES THAT THE PURPOSE OF THE TAX
7 EXPENDITURE IN THIS SECTION IS TO MAKE IT MORE AFFORDABLE FOR
8 QUALIFYING SENIORS WITH AN ILLNESS, INJURY, OR OTHER CONDITION TO
9 BE ABLE TO SEEK HEALTH CARE IN THEIR HOMES.

10 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
11 REQUIRES:

12 (a) "ADA STANDARDS FOR ACCESSIBLE DESIGN" MEANS THE
13 STANDARDS SET FORTH IN 28 CFR 36 AND PROMULGATED IN ACCORDANCE

1 WITH THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", AS
2 AMENDED, 42 U.S.C. SEC. 12101 ET SEQ.

3 (b) "COSTS" MEANS ANY OUT-OF-POCKET COSTS INCURRED BY THE
4 QUALIFYING SENIOR AS DOCUMENTED BY RECEIPT, INCLUDING THE COST
5 OF ANY LABOR NECESSARY TO MAKE HOME MODIFICATIONS.

6 (c) "CREDIT CERTIFICATE" MEANS A CERTIFICATE SIGNED BY A
7 LICENSED PHYSICIAN, DOCTOR OF MEDICINE, DOCTOR OF OSTEOPATHIC
8 MEDICINE, PHYSICIAN'S ASSISTANT, NURSE PRACTITIONER, OR A HOME
9 CARE AGENCY'S COORDINATOR OF CARE THAT LISTS IN DETAIL THE
10 DURABLE MEDICAL EQUIPMENT, HOME HEALTH CARE SERVICES,
11 TELEHEALTH EQUIPMENT, OR HOUSEHOLD MODIFICATIONS NECESSARY FOR
12 A QUALIFYING SENIOR'S HOME HEALTH CARE.

13 (d) (I) "DURABLE MEDICAL EQUIPMENT" MEANS EQUIPMENT,
14 INCLUDING REPAIR AND REPLACEMENT PARTS FOR SUCH EQUIPMENT,
15 APPROVED IN A CREDIT CERTIFICATE THAT:

16 (A) CAN WITHSTAND REPEATED USE;

17 (B) IS PRIMARILY AND CUSTOMARILY USED TO SERVE A MEDICAL
18 PURPOSE;

19 (C) IS GENERALLY NOT USEFUL TO A PERSON IN THE ABSENCE OF
20 ILLNESS OR INJURY; AND

21 (D) IS NOT WORN IN OR ON THE BODY.

22 (II) "DURABLE MEDICAL EQUIPMENT" INCLUDES HOSPITAL BEDS,
23 INTRAVENOUS POLES AND PUMPS, TRAPEZE BARS, TOILETING AIDS, BATH
24 AND SHOWER AIDS, STANDING AIDS, PERSONAL EMERGENCY MEDICAL
25 ALERT DEVICES, AND ADAPTIVE CAR SEATS.

26 (e) "HOME HEALTH CARE SERVICES" MEANS THE MEDICAL OR
27 NONMEDICAL SERVICES PROVIDED UNDER A PLAN OF CARE DEVELOPED BY

1 A LICENSED HOME CARE AGENCY AT A PRIVATE RESIDENCE AND APPROVED
2 IN A CREDIT CERTIFICATE.

3 (f) "HOME MODIFICATION" MEANS THE COSTS OF MATERIALS AND
4 LABOR AS APPROVED IN A CREDIT CERTIFICATE FOR INSTALLING A STAIR
5 LIFT, WHEELCHAIR LIFT, CEILING OR PATIENT LIFT, AN ENTRANCE RAMP, A
6 WALK-IN OR ROLL-IN SHOWER, A WALK-IN TUB, A TOILET OR TOILET
7 ACCESSORY, OR FOR WIDENING ENTRANCE DOORS OR MAKING SINKS
8 ACCESSIBLE, SO THAT THE PRIVATE RESIDENCE MEETS ADA STANDARDS
9 FOR ACCESSIBLE DESIGN.

10 (g) "PRIVATE RESIDENCE" MEANS A QUALIFYING SENIOR'S HOME,
11 EITHER IN A SINGLE-FAMILY RESIDENCE OR A MULTI-FAMILY RESIDENCE,
12 THAT IS LOCATED IN COLORADO. PRIVATE RESIDENCE DOES NOT INCLUDE
13 A SKILLED NURSING FACILITY, ASSISTED LIVING FACILITY, HOSPITAL, OR
14 OTHER LICENSED HEALTH FACILITY.

15 (h) "QUALIFYING SENIOR" MEANS A COLORADO RESIDENT WHO IS
16 SEVENTY-FIVE YEARS OR OLDER.

17 (i) "TELEHEALTH EQUIPMENT" MEANS A HOME GLUCOSE
18 MONITORING DEVICE, A HOME BLOOD PRESSURE MONITORING DEVICE, A
19 HOME ELECTROCARDIOGRAM DEVICE, A CHRONIC OBSTRUCTIVE
20 PULMONARY DISORDER MONITOR, A WEIGHT SCALE, A BODY FAT MONITOR,
21 OR HOME MONITORS FOR RESCUE INHALER USE, INNER EAR INFECTION
22 DETECTION, OR OXYGEN SATURATION.

23 (3) (a) (I) EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS
24 SECTION, FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER
25 JANUARY 1, 2016, BUT PRIOR TO JANUARY 1, 2018, THERE IS ALLOWED TO
26 ANY QUALIFYING SENIOR AS A CREDIT AGAINST THE TAX IMPOSED BY THIS
27 ARTICLE A PERCENTAGE, AS SET FORTH IN PARAGRAPH (b) OF THIS

1 SUBSECTION (3), NOT TO EXCEED THREE THOUSAND DOLLARS PER INCOME
2 TAX YEAR, OF THE COSTS INCURRED BY THE QUALIFYING SENIOR FOR HOME
3 MODIFICATIONS IN EACH INCOME TAX YEAR.

4 (II) EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION, FOR
5 ANY INCOME TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2018, BUT
6 PRIOR TO JANUARY 1, 2020, THERE IS ALLOWED TO ANY QUALIFYING
7 SENIOR AS A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE A
8 PERCENTAGE, AS SET FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (3),
9 NOT TO EXCEED THREE THOUSAND DOLLARS PER INCOME TAX YEAR, OF
10 THE COSTS INCURRED BY THE QUALIFYING SENIOR FOR HOME
11 MODIFICATIONS OR HOME HEALTH CARE SERVICES IN EACH INCOME TAX
12 YEAR.

13 (III) EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION,
14 FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2020,
15 BUT PRIOR TO JANUARY 1, 2022, THERE IS ALLOWED TO ANY QUALIFYING
16 SENIOR AS A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE A
17 PERCENTAGE, AS SET FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (3),
18 NOT TO EXCEED THREE THOUSAND DOLLARS PER INCOME TAX YEAR, OF
19 THE COSTS INCURRED BY THE QUALIFYING SENIOR FOR HOME
20 MODIFICATIONS, HOME HEALTH CARE SERVICES, DURABLE MEDICAL
21 EQUIPMENT, OR TELEHEALTH EQUIPMENT IN EACH INCOME TAX YEAR.

22 (b) THE PERCENTAGE OF THE COSTS INCURRED SHALL BE AS
23 FOLLOWS:

24 (I) FOR A SINGLE RETURN:

25 FEDERAL TAXABLE INCOME:	PERCENTAGE OF THE COSTS
26	INCURRED:
27 \$0 - \$25,000	70%

1	\$25,001 - \$45,000	35%
2	MORE THAN \$45,000	0%
3	(II) FOR A JOINT RETURN:	
4	FEDERAL TAXABLE INCOME:	PERCENTAGE OF THE COSTS
5		INCURRED:
6	\$0 - \$50,000	70%
7	\$50,001 - \$90,000	35%
8	MORE THAN \$90,000	0%

9 (c) TO CLAIM THE TAX CREDIT ALLOWED IN THIS SECTION, THE
10 QUALIFYING SENIOR SHALL ATTACH A COPY OF THE CREDIT CERTIFICATE
11 TO HIS OR HER TAX RETURN. NO TAX CREDIT IS ALLOWED UNDER THIS
12 SECTION UNLESS THE QUALIFYING SENIOR PROVIDES THE COPY OF THE
13 CREDIT CERTIFICATE. NOTWITHSTANDING ANY OTHER PROVISION OF LAW,
14 THE DEPARTMENT OF REVENUE HAS THE AUTHORITY TO REVIEW ALL
15 NECESSARY RECORDS RELATED TO THE CLAIMING OF THE TAX CREDIT
16 ALLOWED IN THIS SECTION. SHOULD THE QUALIFIED SENIOR REFUSE TO
17 ALLOW THE DEPARTMENT OF REVENUE TO REVIEW ANY NECESSARY
18 RECORDS, THE DEPARTMENT OF REVENUE SHALL DENY THE TAX CREDIT.

19 (4) (a) IF THE REVENUE ESTIMATE PREPARED BY THE STAFF OF THE
20 LEGISLATIVE COUNCIL IN DECEMBER 2015 AND EACH DECEMBER
21 THEREAFTER INDICATES THAT THE AMOUNT OF THE TOTAL GENERAL FUND
22 REVENUES, INCLUDING THE IMPACT OF THE TAX CREDIT ALLOWED IN THIS
23 SECTION AND INCLUDING THE IMPACT OF ANY OTHER TAX EXPENDITURE
24 THAT HAVE THE SAME TRIGGER, FOR THAT PARTICULAR FISCAL YEAR WILL
25 NOT BE SUFFICIENT TO GROW THE TOTAL STATE GENERAL FUND
26 APPROPRIATIONS BY SIX PERCENT OVER SUCH APPROPRIATIONS FOR THE
27 PREVIOUS FISCAL YEAR, THEN THE CREDIT AUTHORIZED IN THIS SECTION

1 SHALL NOT BE ALLOWED FOR ANY INCOME TAX YEAR COMMENCING
2 DURING THE CALENDAR YEAR FOLLOWING THE YEAR IN WHICH THE
3 ESTIMATE IS PREPARED; EXCEPT THAT ANY TAXPAYER WHO WOULD HAVE
4 BEEN ELIGIBLE TO CLAIM A CREDIT PURSUANT TO THIS SECTION IN THE
5 INCOME TAX YEAR IN WHICH THE CREDIT IS NOT ALLOWED SHALL BE
6 ALLOWED TO CLAIM THE CREDIT EARNED IN SUCH INCOME TAX YEAR IN
7 THE NEXT INCOME TAX YEAR IN WHICH THE ESTIMATE INDICATES THAT
8 THE AMOUNT OF THE TOTAL GENERAL FUND REVENUES, INCLUDING THE
9 IMPACT OF THE TAX CREDIT ALLOWED IN THIS SECTION AND INCLUDING
10 THE IMPACT OF ANY OTHER TAX EXPENDITURE THAT HAVE THE SAME
11 TRIGGER, WILL BE SUFFICIENT TO GROW THE TOTAL STATE GENERAL FUND
12 APPROPRIATIONS BY SIX PERCENT OVER SUCH APPROPRIATIONS FOR THE
13 PREVIOUS FISCAL YEAR.

14 (b) THE DEPARTMENT OF REVENUE SHALL, THROUGH ITS WEBSITE,
15 SPECIFY ON OR BEFORE JULY 1, 2016, AND JANUARY 1, 2017, AND ON OR
16 BEFORE EACH JANUARY 1 THEREAFTER, WHETHER THE CREDIT
17 AUTHORIZED IN THIS SECTION SHALL BE ALLOWED FOR A GIVEN INCOME
18 TAX YEAR PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (4).

19 (5) IF THE CREDIT ALLOWED IN SUBSECTION (3) OF THIS SECTION
20 EXCEEDS THE AMOUNT OF INCOME TAX DUE ON THE INCOME OF THE
21 QUALIFYING SENIOR FOR THE TAX YEAR DURING WHICH THE COSTS WERE
22 INCURRED, THE AMOUNT OF THE TAX CREDIT NOT USED AS AN OFFSET
23 AGAINST INCOME TAXES IN SUCH INCOME TAX YEAR MAY NOT BE
24 ALLOWED AS A REFUND AND MAY NOT BE CARRIED FORWARD.

25 (6) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
26 SHALL, IN A SUFFICIENTLY TIMELY MANNER TO ALLOW THE DEPARTMENT
27 OF REVENUE TO PROCESS RETURNS CLAIMING THE CREDIT ALLOWED BY

1 THIS SECTION, PROVIDE THE DEPARTMENT OF REVENUE WITH A LIST OF ALL
2 HOME CARE AGENCIES LICENSED IN THE PREVIOUS CALENDAR YEAR.

3 (7) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2026.

4 **SECTION 2. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, and safety.