

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 18-0753.02 Ed DeCecco x4216

HOUSE BILL 18-1202

HOUSE SPONSORSHIP

Garnett,

SENATE SPONSORSHIP

Gardner,

House Committees

Finance
Appropriations

Senate Committees

Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING AN INCOME TAX CREDIT FOR AN EMPLOYER RELATED TO**
102 **AN EMPLOYEE'S PAID LEAVE OF ABSENCE FOR THE PURPOSE OF**
103 **MAKING AN ORGAN DONATION, AND, IN CONNECTION**
104 **THEREWITH, ENACTING THE "LIVING ORGAN DONOR SUPPORT**
105 **ACT".**

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://leg.colorado.gov>.)

Beginning January 1, 2018, an employer is allowed an income tax credit that is an amount equal to 35% of the employer's expenses

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

SENATE
3rd Reading Unamended
May 7, 2018

SENATE
Recall 3rd Reading
May 7, 2018

SENATE
Amended 2nd Reading
May 3, 2018

HOUSE
3rd Reading Unamended
April 30, 2018

HOUSE
Amended 2nd Reading
April 27, 2018

incurred:

- ! Paying an employee during his or her leave of absence period, which is paid leave given to an employee for the purpose of making an organ donation, but which does not exceed 10 working days or the hourly equivalent thereof; and
- ! For the cost of temporary replacement help, if any, during an employee's leave of absence period.

An employer shall not claim a tax credit related to a leave of absence period for an employee who the employer pays wages of \$80,000 or more during the income tax year. The tax credit is not refundable, but unused credits may be carried forward up to 5 years.

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

2 **SECTION 1. Short title.** The short title of this act is the "Living
3 Organ Donor Support Act".

4 **SECTION 2.** In Colorado Revised Statutes, **add** 39-22-539 as
5 follows:

6 **39-22-539. Credit - organ donor - leave of absence period -
7 legislative declaration - definitions.** (1) (a) THE GENERAL ASSEMBLY
8 HEREBY FINDS AND DECLARES THAT:

9 (I) NEARLY TWO THOUSAND FOUR HUNDRED COLORADANS ARE
10 CURRENTLY ON THE WAITING LIST FOR LIFESAVING ORGAN TRANSPLANTS,
11 AND NINETY-SIX PERCENT OF THOSE PEOPLE COULD RECEIVE AN ORGAN,
12 SUCH AS A KIDNEY OR LIVER, FROM A LIVING DONOR;

13 (II) LAST YEAR, TWO HUNDRED FIFTY-EIGHT COLORADANS DIED
14 OR BECAME TOO SICK TO REMAIN ON THE WAITING LIST, WHICH IS
15 THIRTY-EIGHT PERCENT MORE THAN ALL THE HOMICIDES IN THE STATE;

16 (III) THESE LIVES WOULD BE SAVED IF MORE PEOPLE BECAME
17 LIVING DONORS;

18 (IV) IF JUST ONE OUT OF ONE THOUSAND ONE HUNDRED ADULTS IN
19 THE STATE BECAME LIVING DONORS, THE WAITING LIST FOR KIDNEY AND

1 LIVER TRANSPLANTS IN THE STATE WOULD BE ERADICATED; AND

2 (V) THE ABILITY TO GET PAID TIME OFF WORK IS AN ENORMOUS
3 BARRIER FOR LIVING ORGAN DONORS, AND THE LOSS OF INCOME AND FEAR
4 OF LOSING THEIR JOB HAS DETERRED MANY WOULD-BE DONORS.

5 (b) NOW, THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT
6 THE INTENDED PURPOSE OF THE TAX CREDIT IN THIS SECTION IS TO
7 SUPPORT LIVING DONORS AND THE COMPANIES THAT EMPLOY THEM.

8 (2) AS USED IN THIS SECTION:

9 (a) "EMPLOYEE" HAS THE SAME MEANING AS SET FORTH IN
10 SECTION 39-22-604 (2)(a).

11 (b) "LEAVE OF ABSENCE PERIOD" MEANS THE PERIOD, NOT
12 EXCEEDING TEN WORKING DAYS OR THE HOURLY EQUIVALENT OF TEN
13 WORKING DAYS PER EMPLOYEE, DURING WHICH A TAXPAYER PROVIDES A
14 PAID LEAVE OF ABSENCE TO AN EMPLOYEE FOR THE PURPOSE OF ORGAN
15 DONATION. THE TERM DOES NOT INCLUDE A PERIOD DURING WHICH AN
16 EMPLOYEE UTILIZES ANY ANNUAL LEAVE OR SICK DAYS THAT THE
17 EMPLOYEE HAS BEEN GIVEN BY THE EMPLOYER.

18 (c) "TAXPAYER" MEANS AN EMPLOYER THAT DEDUCTS AND
19 WITHHOLDS AMOUNTS FROM THE WAGES PAID TO A QUALIFIED EMPLOYEE
20 PURSUANT TO SECTION 39-22-604 (3).

21 (d) "WAGES" HAS THE SAME MEANING AS SET FORTH IN SECTION
22 3401 (a) OF THE INTERNAL REVENUE CODE.

23 (3) EXCEPT AS SET FORTH IN SUBSECTION (4) OF THIS SECTION, FOR
24 ANY INCOME TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2020, BUT
25 BEFORE JANUARY 1, 2025, A TAXPAYER IS ALLOWED A CREDIT AGAINST
26 THE TAX IMPOSED BY THIS ARTICLE 22 THAT IS AN AMOUNT EQUAL TO
27 THIRTY-FIVE PERCENT OF THE TAXPAYER'S EXPENSES INCURRED:

1 (a) PAYING AN EMPLOYEE DURING HIS OR HER LEAVE OF ABSENCE
2 PERIOD; AND

3 (b) FOR THE COST OF TEMPORARY REPLACEMENT HELP, IF ANY,
4 DURING AN EMPLOYEE'S LEAVE OF ABSENCE PERIOD.

5 (4) A TAXPAYER SHALL NOT CLAIM A TAX CREDIT UNDER THIS
6 SECTION RELATED TO A LEAVE OF ABSENCE PERIOD FOR AN EMPLOYEE
7 WHO THE TAXPAYER PAYS WAGES OF EIGHTY THOUSAND DOLLARS OR
8 MORE DURING THE INCOME TAX YEAR.

9 (5) IF THE AMOUNT OF A CREDIT UNDER THIS SECTION EXCEEDS A
10 TAXPAYER'S ACTUAL TAX LIABILITY FOR AN INCOME TAX YEAR, THE
11 AMOUNT OF THE CREDIT NOT USED TO OFFSET INCOME TAX LIABILITY FOR
12 THE INCOME TAX YEAR IS NOT REFUNDED TO THE TAXPAYER. THE
13 TAXPAYER MAY CARRY FORWARD AND APPLY THE UNUSED CREDIT
14 AGAINST THE INCOME TAX DUE IN EACH OF THE FIVE SUCCEEDING INCOME
15 TAX YEARS, BUT THE TAXPAYER SHALL APPLY THE CREDIT AGAINST THE
16 INCOME TAX DUE FOR THE EARLIEST OF THE INCOME TAX YEARS POSSIBLE.
17 ANY AMOUNT OF THE TAX CREDIT THAT IS NOT USED AFTER THIS PERIOD
18 IS NOT REFUNDABLE.

19 (6) UPON REQUEST OF THE DEPARTMENT OF REVENUE AS PART OF
20 AN AUDIT, A TAXPAYER MUST PROVIDE THE DEPARTMENT WITH
21 DOCUMENTATION FROM THE EMPLOYEE'S MEDICAL PROVIDER, WHICH THE
22 TAXPAYER RECEIVED FROM THE EMPLOYEE, THAT VERIFIES THE
23 EMPLOYEE'S ORGAN DONATION. IF THE TAXPAYER CANNOT PROVIDE THE
24 DOCUMENTATION, THEN THE TAXPAYER IS INELIGIBLE FOR THE CREDIT
25 UNDER THIS SECTION.

26 **SECTION 3.** In Colorado Revised Statutes, 24-72-602, **amend**
27 **(3)(a)** introductory portion, **(3)(a)(II)**, and **(3)(b)**; and **add (3)(c)** as

1 follows:

2 **24-72-602. Access to personal medical information prohibited**

3 - **exceptions.** (3) This section does not:

4 (a) Prohibit the department from accessing an invoice, a sales
5 receipt, or other documentation of a sale necessary to substantiate an
6 exemption from state sales tax under section 39-26-717 ~~C.R.S.~~, as long
7 as:

8 (II) Any information in the documentation that identifies or could
9 be used to identify an individual patient or that indicates a patient
10 diagnosis or treatment plan has been redacted from the documentation; ~~or~~

11 (b) Override the authority of the department to obtain and use a
12 written medical opinion in accordance with section 42-2-112; ~~C.R.S.~~; OR

13 (c) APPLY TO A REQUEST BY THE DEPARTMENT FOR INFORMATION
14 IN ACCORDANCE WITH SECTION 39-22-539 (6).

15 **SECTION 4. Act subject to petition - effective date.** This act
16 takes effect at 12:01 a.m. on the day following the expiration of the
17 ninety-day period after final adjournment of the general assembly (August
18 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
19 referendum petition is filed pursuant to section 1 (3) of article V of the
20 state constitution against this act or an item, section, or part of this act
21 within such period, then the act, item, section, or part will not take effect
22 unless approved by the people at the general election to be held in
23 November 2018 and, in such case, will take effect on the date of the
24 official declaration of the vote thereon by the governor.