

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

REVISED

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

LLS NO. 18-0753.02 Ed DeCecco x4216

HOUSE BILL 18-1202

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HOUSE SPONSORSHIP

Garnett,

SENATE SPONSORSHIP

Gardner,

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House Committees

Finance  
Appropriations

Senate Committees

Finance  
Appropriations

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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".

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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  
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.

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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.