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HOUSE BILL 22-1026

BY REPRESENTATIVE(S) Bird and Woog, Benavidez, Boesenecker, Duran, Kipp, Lindsay, McCluskie, Mullica, Snyder, Valdez A., Hooton, Michaelson Jenet, Ortiz;
also SENATOR(S) Hansen and Liston, Kolker, Ginal, Hinrichsen, Lee, Pettersen.

CONCERNING THE REPLACEMENT OF THE INCOME TAX DEDUCTION FOR AMOUNTS SPENT BY AN EMPLOYER TO PROVIDE ALTERNATIVE TRANSPORTATION OPTIONS TO EMPLOYEES WITH AN INCOME TAX CREDIT FOR AMOUNTS SPENT BY AN EMPLOYER FOR THAT PURPOSE, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **amend** 39-22-509 as follows:

39-22-509. Credit against tax - employer expenditures for alternative transportation options for employees - legislative declaration - definitions. (1) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A

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.

STATUTORY LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) THE GENERAL LEGISLATIVE PURPOSES OF THE TAX CREDIT ALLOWED BY THIS SECTION ARE:

(I) TO INDUCE CERTAIN DESIGNATED BEHAVIOR BY TAXPAYERS, SPECIFICALLY THE PROVISION OF ALTERNATIVE TRANSPORTATION OPTIONS BY EMPLOYERS TO EMPLOYEES; AND

(II) TO PROVIDE TAX RELIEF FOR CERTAIN EMPLOYERS THAT PROVIDE ALTERNATIVE TRANSPORTATION OPTIONS TO THEIR EMPLOYEES;

(b) THE SPECIFIC LEGISLATIVE PURPOSE OF THE TAX CREDIT ALLOWED BY THIS SECTION IS TO INCREASE THE USE OF ALTERNATIVE TRANSPORTATION OPTIONS BY EMPLOYEES IN GOING TO AND RETURNING FROM THEIR PLACES OF EMPLOYMENT BY PROVIDING AN INCENTIVE TO EMPLOYERS TO PROVIDE ALTERNATIVE TRANSPORTATION OPTIONS TO EMPLOYEES. IN ORDER TO ALLOW THE GENERAL ASSEMBLY AND THE STATE AUDITOR TO MEASURE THE EFFECTIVENESS OF THE CREDIT, THE DEPARTMENT OF REVENUE, WHEN ADMINISTERING THE CREDIT, SHALL REQUIRE EACH EMPLOYER THAT CLAIMS THE CREDIT TO PROVIDE, AT A MINIMUM, INFORMATION ABOUT THE SPECIFIC ALTERNATIVE TRANSPORTATION OPTIONS OFFERED, THE NUMBER OF EMPLOYEES OFFERED AN ALTERNATIVE TRANSPORTATION OPTION, AND, TO THE EXTENT FEASIBLE, THE NUMBER OF EMPLOYEES ACTUALLY USING AN ALTERNATIVE TRANSPORTATION OPTION AND THE NUMBER OF TRIPS TAKEN BY EMPLOYEES USING AN ALTERNATIVE TRANSPORTATION OPTION.

~~(1) (2) There shall be allowed to corporate employers a deduction from Colorado gross income, to the extent not previously deducted in arriving at Colorado gross income, equal to the employer's contribution to:~~
AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ALTERNATIVE TRANSPORTATION OPTIONS" MEANS free or partially subsidized ~~ridesharing arrangements~~ GENERALLY ACCEPTED TRANSPORTATION DEMAND MANAGEMENT STRATEGIES PROVIDED TO EMPLOYEES WORKING IN COLORADO, INCLUDING BUT NOT LIMITED TO RIDESHARING ARRANGEMENTS, PROVISION OF RIDESHARING VANS OR LOW-SPEED CONVEYANCES SUCH AS HUMAN-POWERED OR ELECTRIC

BICYCLES, SHARED MICROMOBILITY OPTIONS SUCH AS BIKESHARING AND ELECTRIC SCOOTER SHARING PROGRAMS, CARSHARING PROGRAMS, AND GUARANTEED RIDE HOME PROGRAMS for employees, including, but not limited to, ~~providing~~ TO:

(I) PROVIDING vehicles for ~~such arrangements, cash incentives (not RIDESHARING ARRANGEMENTS;~~

(II) CASH INCENTIVES, NOT to exceed the value of such ~~transportation)~~ TRANSPORTATION DEMAND MANAGEMENT STRATEGIES, INCLUDING for participation in ridesharing OR BIKESHARING; ~~arrangements, and the~~

(III) THE payment of all or part of the administrative cost incurred in organizing, establishing, or administering ~~a ridesharing program~~ ALTERNATIVE TRANSPORTATION OPTIONS PROGRAMS FOR EMPLOYEES;

(IV) FREE OR PARTIALLY SUBSIDIZED MASS TRANSIT TICKETS, TOKENS, PASSES, OR FARES FOR USE BY EMPLOYEES IN GOING TO AND RETURNING FROM THEIR PLACES OF EMPLOYMENT; AND

(V) FREE OR PARTIALLY SUBSIDIZED PREARRANGED RIDES, AS DEFINED IN SECTION 40-10.1-602 (2), OR FREE OR PARTIALLY SUBSIDIZED RIDES PROVIDED BY BIKESHARING ARRANGEMENTS FOR USE BY AN EMPLOYEE IN TRAVELING BETWEEN THE EMPLOYEE'S RESIDENCE, THE EMPLOYEE'S PLACE OF EMPLOYMENT, OR A MASS TRANSIT FACILITY THAT CONNECTS THE EMPLOYEE TO THE EMPLOYEE'S RESIDENCE OR PLACE OF EMPLOYMENT.

(b) "BIKESHARING ARRANGEMENT" MEANS A RENTAL OPERATION AT WHICH BICYCLES, AS DEFINED IN SECTION 42-1-102 (10); ELECTRICAL ASSISTED BICYCLES, AS DEFINED IN SECTION 42-1-102 (28.5); OR ELECTRIC SCOOTERS, AS DEFINED IN SECTION 42-1-102 (28.8), ARE MADE AVAILABLE TO PICK UP AND DROP OFF FOR POINT-TO-POINT USE WITHIN A DEFINED GEOGRAPHIC AREA.

(c) "EMPLOYER" MEANS AN ENTITY, INCLUDING BUT NOT LIMITED TO A CORPORATION, NONPROFIT ORGANIZATION, PARTNERSHIP, JOINT VENTURE, COMMON TRUST FUND, LIMITED ASSOCIATION, POOL OR WORKING AGREEMENT, LOCAL GOVERNMENT, OR LIMITED LIABILITY COMPANY, THAT

EMPLOYS THREE OR MORE PERSONS IN THIS STATE.

(d) "LOCAL GOVERNMENT" MEANS ANY HOME RULE CITY, TOWN, OR CITY AND COUNTY, OR STATUTORY CITY OR TOWN.

~~(H)~~ (e) ~~For the purposes of this section,~~ "Ridesharing arrangement" means the vehicular transportation of passengers traveling together primarily to and from such passengers' places of business or work or traveling together on a regularly scheduled basis with a commonality of purposes if the vehicle used in such transportation is not operated for profit by an entity primarily engaged in the transportation business and if no charge is made therefor other than that reasonably calculated to recover the direct and indirect costs of the "ridesharing arrangement", including, but not limited to, a reasonable incentive to maximize occupancy of the vehicle. However, nothing in this subparagraph ~~(H)~~ shall be construed as excluding SUBSECTION (2)(c) EXCLUDES from this definition an arrangement by an employer engaged in the transportation business ~~who~~ THAT provides ridesharing arrangements for its employees. ~~The term~~ "RIDESHARING" includes "ridesharing arrangements" commonly known as carpools and vanpools, ~~except that this term~~ BUT does not include school transportation vehicles operated by elementary and secondary schools when they are operated for the transportation of children to or from school or on school-related events.

~~(b) Free or partially subsidized mass transit tickets, tokens, passes, or fares for use by employees in going to and returning from their places of employment.~~

(3) (a) FOR INCOME TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2023, BUT BEFORE JANUARY 1, 2025, THERE IS ALLOWED A CREDIT TO EACH EMPLOYER IN AN AMOUNT EQUAL TO FIFTY PERCENT OF THE AMOUNT SPENT BY THE EMPLOYER TO PROVIDE ALTERNATIVE TRANSPORTATION OPTIONS TO ITS EMPLOYEES, SUBJECT TO THE LIMITATIONS THAT THE MAXIMUM AMOUNT SPENT IN ANY INCOME TAX YEAR FOR WHICH AN EMPLOYER MAY CLAIM A CREDIT IS TWO HUNDRED FIFTY THOUSAND DOLLARS AND THAT THE MAXIMUM AMOUNT SPENT IN ANY INCOME TAX YEAR FOR ANY ONE EMPLOYEE FOR WHICH AN EMPLOYER MAY CLAIM A CREDIT IS TWO THOUSAND DOLLARS.

(b) A LOCAL GOVERNMENT OR NONPROFIT ORGANIZATION SHALL FILE

A CORPORATE INCOME TAX RETURN FOR INFORMATIONAL PURPOSES FOR EACH INCOME TAX YEAR THAT THE LOCAL GOVERNMENT OR NONPROFIT ORGANIZATION CLAIMS THE CREDIT ALLOWED IN SUBSECTION (3)(a) OF THIS SECTION.

(c) AS A PREREQUISITE FOR CLAIMING A CREDIT, AN EMPLOYER SHALL PROVIDE TO THE DEPARTMENT, ON A FORM PROVIDED BY THE DEPARTMENT OR OTHERWISE IN SUCH FORM AS THE DEPARTMENT MAY REQUIRE AND BY AN ANNUAL DEADLINE SPECIFIED BY THE DEPARTMENT, ITS PLAN FOR NOTIFYING ITS EMPLOYEES OF THE AVAILABILITY OF THE ALTERNATIVE TRANSPORTATION OPTIONS THAT IT OFFERS AND THE STEPS BEYOND SUCH NOTIFICATION THAT IT PLANS TO TAKE TO ENCOURAGE EMPLOYEES TO USE THOSE ALTERNATIVE TRANSPORTATION OPTIONS.

(d) AN EMPLOYER MAY CLAIM A CREDIT ONLY FOR AMOUNTS SPENT BY THE EMPLOYER FOR ALTERNATIVE TRANSPORTATION OPTIONS THAT IT MAKES AVAILABLE TO ALL OF ITS EMPLOYEES WHO ARE EMPLOYED IN COLORADO; EXCEPT THAT, IF IT IS NOT FEASIBLE TO OFFER A PARTICULAR ALTERNATIVE TRANSPORTATION OPTION TO CERTAIN EMPLOYEES, AN EMPLOYER MAY OFFER A SUBSTANTIALLY EQUIVALENT ALTERNATIVE TRANSPORTATION OPTION TO SUCH EMPLOYEES. THE REQUIREMENT THAT AN ALTERNATIVE TRANSPORTATION OPTION BE OFFERED TO ALL EMPLOYEES WHO ARE EMPLOYED IN COLORADO APPLIES REGARDLESS OF THE POSITION THAT AN EMPLOYEE HOLDS, WHETHER THE EMPLOYEE IS EMPLOYED ON A FULL-TIME OR PART-TIME BASIS, OR WHETHER AN EMPLOYEE IS SALARIED, COMPENSATED IN WHOLE OR IN PART THROUGH COMMISSIONS OR TIPS, OR PAID ON AN HOURLY BASIS.

(4) THE AMOUNT OF ANY CREDIT ALLOWED UNDER THIS SECTION THAT EXCEEDS THE EMPLOYER'S INCOME TAXES DUE IS REFUNDED TO THE EMPLOYER.

(5) THE EXECUTIVE DIRECTOR MAY PRESCRIBE FORMS AND PROMULGATE RULES AS NECESSARY TO ADMINISTER THIS SECTION.

(6) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2029.

SECTION 2. Appropriation. (1) For the 2022-23 state fiscal year, \$93,758 is appropriated to the department of revenue. This appropriation is from the general fund. To implement this act, the department may use this

appropriation as follows:

(a) \$63,564 for use by taxation services for personal services, which amount is based on an assumption that the division will require an additional 0.2 FTE;

(b) \$18,000 for tax administration IT system (GenTax) support; and

(c) \$12,194 for the purchase of document management services.

(2) For the 2022-23 state fiscal year, \$12,194 is appropriated to the department of personnel. This appropriation is from reappropriated funds received from the department of revenue under subsection (1)(c) of this section. To implement this act, the department of personnel may use this appropriation to provide document management services for the department of revenue.

SECTION 3. Act subject to petition - effective date. This act takes effect January 1, 2023; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be

held in November 2022 and, in such case, will take effect January 1, 2023, or on the date of the official declaration of the vote thereon by the governor, whichever is later.

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Steve Fenberg
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO