

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

REVISED

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

LLS NO. 22-0161.01 Jason Gelender x4330

HOUSE BILL 22-1026

HOUSE SPONSORSHIP

Bird and Woog, Benavidez, Boesenecker, Duran, Kipp, Lindsay, McCluskie, Mullica, Snyder, Valdez A.

SENATE SPONSORSHIP

Hansen and Liston, Kolker

House Committees

Finance
Appropriations

Senate Committees

Finance
Appropriations

A BILL FOR AN ACT

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

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/>.)

Legislative Oversight Committee Concerning Tax Policy. The

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 9, 2022

HOUSE
3rd Reading Unamended
May 4, 2022

HOUSE
Amended 2nd Reading
May 3, 2022

bill replaces an existing income tax deduction for expenses incurred by employers when providing alternative transportation options to employees with a refundable income tax credit of 50% of such expenses for such employers. The credit is allowed for income tax years beginning on or after January 1, 2023, but before January 1, 2033.

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

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

4 **39-22-509. Credit against tax - employer expenditures for**
5 **alternative transportation options for employees - legislative**
6 **declaration - definitions.** (1) IN ACCORDANCE WITH SECTION 39-21-304
7 (1), WHICH REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE
8 TO INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A
9 STATUTORY LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY HEREBY
10 FINDS AND DECLARES THAT:

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

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

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

18 (b) THE SPECIFIC LEGISLATIVE PURPOSE OF THE TAX CREDIT
19 ALLOWED BY THIS SECTION IS TO INCREASE THE USE OF ALTERNATIVE
20 TRANSPORTATION OPTIONS BY EMPLOYEES IN GOING TO AND RETURNING
21 FROM THEIR PLACES OF EMPLOYMENT BY PROVIDING AN INCENTIVE TO
22 EMPLOYERS TO PROVIDE ALTERNATIVE TRANSPORTATION OPTIONS TO
23 EMPLOYEES. IN ORDER TO ALLOW THE GENERAL ASSEMBLY AND THE

1 STATE AUDITOR TO MEASURE THE EFFECTIVENESS OF THE CREDIT, THE
2 DEPARTMENT OF REVENUE, WHEN ADMINISTERING THE CREDIT, SHALL
3 REQUIRE EACH EMPLOYER THAT CLAIMS THE CREDIT TO PROVIDE, AT A
4 MINIMUM, INFORMATION ABOUT THE SPECIFIC ALTERNATIVE
5 TRANSPORTATION OPTIONS OFFERED, THE NUMBER OF EMPLOYEES
6 OFFERED AN ALTERNATIVE TRANSPORTATION OPTION, AND, TO THE
7 EXTENT FEASIBLE, THE NUMBER OF EMPLOYEES ACTUALLY USING AN
8 ALTERNATIVE TRANSPORTATION OPTION AND THE NUMBER OF TRIPS
9 TAKEN BY EMPLOYEES USING AN ALTERNATIVE TRANSPORTATION OPTION.

10 ~~(1) (2) There shall be allowed to corporate employers a deduction~~
11 ~~from Colorado gross income, to the extent not previously deducted in~~
12 ~~arriving at Colorado gross income, equal to the employer's contribution~~
13 ~~to.~~ AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

14 (a) "ALTERNATIVE TRANSPORTATION OPTIONS" MEANS free or
15 partially subsidized ~~ridesharing arrangements~~ GENERALLY ACCEPTED
16 TRANSPORTATION DEMAND MANAGEMENT STRATEGIES PROVIDED TO
17 EMPLOYEES WORKING IN COLORADO, INCLUDING BUT NOT LIMITED TO
18 ~~RIDESHARING ARRANGEMENTS,~~ PROVISION OF RIDESHARING VANS OR
19 ~~LOW-SPEED CONVEYANCES SUCH AS HUMAN-POWERED OR ELECTRIC~~
20 ~~BICYCLES, SHARED MICROMOBILITY OPTIONS SUCH AS BIKESHARING AND~~
21 ~~ELECTRIC SCOOTER SHARING PROGRAMS, CARSHARING PROGRAMS, AND~~
22 ~~GUARANTEED RIDE HOME PROGRAMS~~ for employees, including, but not
23 limited to, ~~providing~~ TO:

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

26 (II) CASH INCENTIVES, NOT to exceed the value of such
27 ~~transportation)~~ TRANSPORTATION DEMAND MANAGEMENT STRATEGIES,

1 INCLUDING for participation in ridesharing OR BIKESHARING;
2 arrangements, and the

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

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

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

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

22 (c) "EMPLOYER" MEANS AN ENTITY, INCLUDING BUT NOT LIMITED
23 TO A CORPORATION, NONPROFIT ORGANIZATION, PARTNERSHIP, JOINT
24 VENTURE, COMMON TRUST FUND, LIMITED ASSOCIATION, POOL OR
25 WORKING AGREEMENT, LOCAL GOVERNMENT, OR LIMITED LIABILITY
26 COMPANY, THAT EMPLOYS THREE OR MORE PERSONS IN THIS STATE.

27 (d) "LOCAL GOVERNMENT" MEANS ANY HOME RULE CITY, TOWN,

1 ~~OR CITY AND COUNTY, OR STATUTORY CITY OR TOWN.~~

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

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

24 (3) (a) FOR INCOME TAX YEARS BEGINNING ON OR AFTER JANUARY
25 1, 2023, BUT BEFORE JANUARY 1, 2025, THERE IS ALLOWED A CREDIT TO
26 EACH EMPLOYER IN AN AMOUNT EQUAL TO FIFTY PERCENT OF THE AMOUNT
27 SPENT BY THE EMPLOYER TO PROVIDE ALTERNATIVE TRANSPORTATION

1 OPTIONS TO ITS EMPLOYEES, SUBJECT TO THE LIMITATIONS THAT THE
2 MAXIMUM AMOUNT SPENT IN ANY INCOME TAX YEAR FOR WHICH AN
3 EMPLOYER MAY CLAIM A CREDIT IS TWO HUNDRED FIFTY THOUSAND
4 DOLLARS AND THAT THE MAXIMUM AMOUNT SPENT IN ANY INCOME TAX
5 YEAR FOR ANY ONE EMPLOYEE FOR WHICH AN EMPLOYER MAY CLAIM A
6 CREDIT IS TWO THOUSAND DOLLARS.

7 (b) A LOCAL GOVERNMENT OR NONPROFIT ORGANIZATION SHALL
8 FILE A CORPORATE INCOME TAX RETURN FOR INFORMATIONAL PURPOSES
9 FOR EACH INCOME TAX YEAR THAT THE LOCAL GOVERNMENT OR
10 NONPROFIT ORGANIZATION CLAIMS THE CREDIT ALLOWED IN SUBSECTION
11 (3)(a) OF THIS SECTION.

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

20 (d) AN EMPLOYER MAY CLAIM A CREDIT ONLY FOR AMOUNTS
21 SPENT BY THE EMPLOYER FOR ALTERNATIVE TRANSPORTATION OPTIONS
22 THAT IT MAKES AVAILABLE TO ALL OF ITS EMPLOYEES WHO ARE EMPLOYED
23 IN COLORADO; EXCEPT THAT, IF IT IS NOT FEASIBLE TO OFFER A
24 PARTICULAR ALTERNATIVE TRANSPORTATION OPTION TO CERTAIN
25 EMPLOYEES, AN EMPLOYER MAY OFFER A SUBSTANTIALLY EQUIVALENT
26 ALTERNATIVE TRANSPORTATION OPTION TO SUCH EMPLOYEES. THE
27 REQUIREMENT THAT AN ALTERNATIVE TRANSPORTATION OPTION BE

1 OFFERED TO ALL EMPLOYEES WHO ARE EMPLOYED IN COLORADO APPLIES
2 REGARDLESS OF THE POSITION THAT AN EMPLOYEE HOLDS, WHETHER THE
3 EMPLOYEE IS EMPLOYED ON A FULL-TIME OR PART-TIME BASIS, OR
4 WHETHER AN EMPLOYEE IS SALARIED, COMPENSATED IN WHOLE OR IN
5 PART THROUGH COMMISSIONS OR TIPS, OR PAID ON AN HOURLY BASIS.

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

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

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

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

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

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

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

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

1 **SECTION 3. Act subject to petition - effective date.** This act
2 takes effect January 1, 2023; except that, if a referendum petition is filed
3 pursuant to section 1 (3) of article V of the state constitution against this
4 act or an item, section, or part of this act within the ninety-day period
5 after final adjournment of the general assembly, then the act, item,
6 section, or part will not take effect unless approved by the people at the
7 general election to be held in November 2022 and, in such case, will take
8 effect January 1, 2023, or on the date of the official declaration of the
9 vote thereon by the governor, whichever is later.