

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REVISED

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

LLS NO. 23-0683.01 Zach Blaes x4348

HOUSE BILL 23-1091

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A BILL FOR AN ACT

101 **CONCERNING THE INCOME TAX CREDIT FOR A QUALIFYING**
102 **CONTRIBUTION TO PROMOTE CHILD CARE IN THE STATE, AND, IN**
103 **CONNECTION THEREWITH, CONTINUING THE CREDIT FOR THREE**
104 **YEARS, REQUIRING THE DEPARTMENT OF REVENUE TO DEVELOP**
105 **RECOMMENDATIONS FOR THE EXPANSION OF THE TYPES OF**
106 **CONTRIBUTIONS THAT QUALIFY FOR THE CREDIT, AND MAKING**
107 **AN 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>.)

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

SENATE
2nd Reading Unamended
April 28, 2023

HOUSE
3rd Reading Unamended
April 15, 2023

HOUSE
Amended 2nd Reading
April 14, 2023

A taxpayer who makes a monetary contribution to promote child care in the state is allowed an income tax credit that is equal to 50% of the total value of the contribution. This exemption is currently available for income tax years that commence prior to January 1, 2025. The bill extends the credit for 3 years and increases the types of contributions that qualify for the tax credit to include in-kind donations of real property, which include the value of leasing real property below market value, to promote child care.

The bill adds a statutory legislative declaration to comply with an existing statutory requirement that any bill that extends a tax expenditure include a statutory legislative declaration. The bill also requires the state auditor to prepare the tax expenditure evaluation report for the credit that is periodically required by current law in the income tax year commencing January 1, 2026.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-22-121, **amend**
3 (1.5), (2), and (7); and **add** (6.8) as follows:

4 **39-22-121. Credit for child care facilities - legislative**
5 **declaration - definitions - repeal.** (1.5) For income tax years
6 commencing prior to ~~January 1, 2025~~ JANUARY 1, 2028, any taxpayer who
7 makes a monetary █ contribution to promote child care in the state is
8 allowed a credit against the income tax imposed by this article 22 in an
9 amount equal to fifty percent of the total value of the contribution except
10 as otherwise provided in subsections (5) and (6.7) of this section. █ █

11 (2) Monetary █ contributions to promote child care in the state
12 ~~must~~ include the following types of contributions:

13 (a) ~~Donating money~~ for the establishment or operation of a child
14 care facility that uses the donation to provide child care, a child care
15 program that is not a child care facility but provides child care services
16 similar to those provided by a child care center, as defined in sections
17 26-6-903 and 26.5-5-303, or any other program that received donations

1 for which a credit was allowed to the donor pursuant to this section for
2 any income tax year that ended before January 1, 2004, in the state;

3 (b) Donating money to establish a grant or loan program for a
4 parent or parents in the state requiring financial assistance for child care;

5 (c) Pooling money of several businesses and donating the
6 money for the establishment of a child care facility in the state;

7 (d) Donating money for the training of child care providers in the
8 state; and

9 (e) Donating money for the establishment of an information
10 dissemination program in the state to provide information and referral
11 services to assist a parent or parents in obtaining child care.

12 (6.8) (a) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH
13 REQUIRES EACH BILL THAT EXTENDS A TAX EXPENDITURE TO INCLUDE A
14 TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY
15 LEGISLATIVE DECLARATION IF ONE WAS NOT PREVIOUSLY INCLUDED IN THE
16 TAX EXPENDITURE, THE GENERAL ASSEMBLY FINDS AND DECLARES THAT
17 THE GENERAL PURPOSE OF THIS TAX EXPENDITURE IS INTENDED TO INDUCE
18 CERTAIN DESIGNATED BEHAVIOR BY TAXPAYERS. SPECIFICALLY, THIS TAX
19 EXPENDITURE IS INTENDED TO ENCOURAGE TAXPAYERS TO MAKE
20 DONATIONS THAT PROMOTE CHILD CARE.

21 (b) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL
22 MEASURE THE EFFECTIVENESS OF THE TAX CREDIT IN ACHIEVING THE
23 PURPOSES SPECIFIED IN SUBSECTION (6.8)(a) OF THIS SECTION BASED ON
24 THE NUMBER AND VALUE OF CREDITS THAT ARE CLAIMED. FOR INCOME
25 TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2024, IN ORDER TO
26 ALLOW THE GENERAL ASSEMBLY AND THE STATE AUDITOR TO MEASURE
27 THE EFFECTIVENESS OF THE CREDIT, THE DEPARTMENT OF REVENUE, WHEN

1 ADMINISTERING THE CREDIT, SHALL COLLECT, AT A MINIMUM, THE
2 FOLLOWING INFORMATION ABOUT THE TAXPAYER'S CONTRIBUTION TO
3 PROMOTE CHILD CARE:

4 (I) THE CONTRIBUTION AMOUNT;

5 (II) THE PERSON TO WHOM THE TAXPAYER MADE THE
6 CONTRIBUTION;

7 (III) THE TYPE OF CONTRIBUTION MADE PURSUANT TO SUBSECTION
8 (2) OF THIS SECTION;

9 (IV) THE TYPE OF CHILD CARE FACILITY AND PROGRAMS TO WHICH
10 THE TAXPAYER MADE THE CONTRIBUTION; AND

11 (V) THE COUNTY IN WHICH THE PERSON RECEIVING THE DONATION
12 IS LOCATED.

13 (c) THE DEPARTMENT OF REVENUE SHALL CONSULT WITH THE
14 EARLY CHILDHOOD LEADERSHIP COMMISSION CREATED IN SECTION
15 26.5-1-302, THE PUBLIC-PRIVATE COLLABORATION UNIT IN THE
16 DEPARTMENT OF PERSONNEL CREATED IN SECTION 24-94-103 (2), AND THE
17 DEPARTMENT OF EARLY CHILDHOOD CREATED IN SECTION 26.5-1-104 (1)
18 TO STUDY POSSIBLE IMPROVEMENT TO THE TAX CREDIT ALLOWED
19 PURSUANT TO THIS SECTION AND TO DEVELOP RECOMMENDATIONS FOR
20 FURTHER MEASURING THE EFFECTIVENESS OF THE TAX CREDIT. ON OR
21 BEFORE JULY 31, 2024, THE DEPARTMENT OF REVENUE SHALL DELIVER TO
22 THE JOINT BUDGET COMMITTEE, THE FINANCE COMMITTEES OF THE SENATE
23 AND THE HOUSE OF REPRESENTATIVES, AND THE OFFICE OF THE STATE
24 AUDITOR THE RECOMMENDATIONS DEVELOPED PURSUANT TO THIS
25 SUBSECTION (6.8)(c). IN ADDITION TO RECOMMENDATIONS FOR FURTHER
26 MEASURING THE EFFECTIVENESS OF THE TAX CREDIT, THE
27 RECOMMENDATIONS MUST INCLUDE RECOMMENDATIONS FOR:

1 (I) IMPROVING THE STRUCTURE, OVERSIGHT, AND ADMINISTRATION
2 OF THE TAX CREDIT;

3 (II) DEVELOPING MECHANISMS TO INFORM TAXPAYERS AND
4 ELIGIBLE CHILD CARE FACILITIES AND PROGRAMS ABOUT THE
5 AVAILABILITY OF THE TAX CREDIT;

6 (III) ENSURING THE TAX CREDIT IS EQUITABLY PROMOTING CHILD
7 CARE IN ALL COMMUNITIES; AND

8 (IV) ALLOWING DONATIONS OF IN-KIND REAL PROPERTY TO
9 QUALIFY AS AN ELIGIBLE CONTRIBUTION TO PROMOTE CHILD CARE.

10 (d) IN THE INCOME TAX YEAR COMMENCING JANUARY 1, 2026, THE
11 STATE AUDITOR SHALL PREPARE A TAX EXPENDITURE EVALUATION REPORT
12 PURSUANT TO SECTION 39-21-305 FOR THE TAX CREDIT SPECIFIED IN THIS
13 SECTION. IN ACCORDANCE WITH SECTION 39-21-305 (1)(e), THE STATE
14 AUDITOR SHALL POST THE REPORT ON THE GENERAL ASSEMBLY'S WEBSITE
15 AND DELIVER THE REPORT TO THE JOINT BUDGET COMMITTEE AND THE
16 FINANCE COMMITTEES OF THE SENATE AND THE HOUSE OF
17 REPRESENTATIVES NO LATER THAN SEPTEMBER 15, 2026.

18 (7) This section is repealed, effective ~~January 1, 2032~~ JANUARY
19 1, 2035.

20 **SECTION 2. Appropriation.** (1) For the 2023-24 state fiscal
21 year, \$78,254 is appropriated to the department of revenue. This
22 appropriation is from the general fund. To implement this act, the
23 department may use this appropriation as follows:

24 (a) \$39,053 for use by taxation services for personal services,
25 which amount is based on an assumption that the division will require an
26 additional 0.5 FTE;

27 (b) \$7,345 for use by taxation services for operating expenses;

1 (c) \$20,975 for tax administration IT system (GenTax) support;

2 and

3 (d) \$10,881 for the purchase of document management services.

4 (2) For the 2023-24 state fiscal year, \$10,881 is appropriated to the
5 department of personnel. This appropriation is from reappropriated funds
6 received from the department of revenue under subsection (1)(d) of this
7 section. To implement this act, the department of personnel may use this
8 appropriation to provide document management services for the
9 department of revenue.

10 **SECTION 3. Act subject to petition - effective date.** This act
11 takes effect at 12:01 a.m. on the day following the expiration of the
12 ninety-day period after final adjournment of the general assembly; except
13 that, if a referendum petition is filed pursuant to section 1 (3) of article V
14 of the state constitution against this act or an item, section, or part of this
15 act within such period, then the act, item, section, or part will not take
16 effect unless approved by the people at the general election to be held in
17 November 2024 and, in such case, will take effect on the date of the
18 official declaration of the vote thereon by the governor.