

CHAPTER 241

TAXATION

HOUSE BILL 23-1091

BY REPRESENTATIVE(S) Pugliese and Kipp, Amabile, Bacon, Bird, Boesenecker, Brown, Daugherty, deGruy Kennedy, Dickson, Duran, English, Epps, Froelich, Gonzales-Gutierrez, Hamrick, Herod, Jodeh, Lindsay, Lindstedt, Lukens, Lynch, Mabrey, Marshall, Martinez, McCormick, McLachlan, Michaelson Jenet, Sharbini, Sirota, Snyder, Story, Titone, Valdez, Velasco, Vigil, Weissman, Willford, Woodrow, Young, McCluskie;
also SENATOR(S) Marchman and Rich, Bridges, Buckner, Coleman, Cutter, Exum, Fields, Ginal, Gonzales, Hinrichsen, Jaquez Lewis, Kolker, Moreno, Mullica, Priola, Roberts, Sullivan, Winter F., Zenzinger.

AN ACT

CONCERNING THE INCOME TAX CREDIT FOR A QUALIFYING CONTRIBUTION TO PROMOTE CHILD CARE IN THE STATE, AND, IN CONNECTION THEREWITH, CONTINUING THE CREDIT FOR THREE YEARS, REQUIRING THE DEPARTMENT OF REVENUE TO DEVELOP RECOMMENDATIONS FOR THE EXPANSION OF THE TYPES OF CONTRIBUTIONS THAT QUALIFY FOR THE CREDIT, AND MAKING AN APPROPRIATION.

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

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

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

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

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

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.

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

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

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

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

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

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

(b) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL MEASURE THE EFFECTIVENESS OF THE TAX CREDIT IN ACHIEVING THE PURPOSES SPECIFIED IN SUBSECTION (6.8)(a) OF THIS SECTION BASED ON THE NUMBER AND VALUE OF CREDITS THAT ARE CLAIMED. FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2024, 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 COLLECT, AT A MINIMUM, THE FOLLOWING INFORMATION ABOUT THE TAXPAYER'S CONTRIBUTION TO PROMOTE CHILD CARE:

(I) THE CONTRIBUTION AMOUNT;

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

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

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

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

(c) THE DEPARTMENT OF REVENUE SHALL CONSULT WITH THE EARLY CHILDHOOD LEADERSHIP COMMISSION CREATED IN SECTION 26.5-1-302, THE PUBLIC-PRIVATE COLLABORATION UNIT IN THE DEPARTMENT OF PERSONNEL CREATED IN SECTION 24-94-103 (2), AND THE DEPARTMENT OF EARLY CHILDHOOD CREATED IN SECTION 26.5-1-104 (1) TO STUDY POSSIBLE IMPROVEMENT TO THE TAX CREDIT ALLOWED

PURSUANT TO THIS SECTION AND TO DEVELOP RECOMMENDATIONS FOR FURTHER MEASURING THE EFFECTIVENESS OF THE TAX CREDIT. ON OR BEFORE JULY 31, 2024, THE DEPARTMENT OF REVENUE SHALL DELIVER TO THE JOINT BUDGET COMMITTEE, THE FINANCE COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, AND THE OFFICE OF THE STATE AUDITOR THE RECOMMENDATIONS DEVELOPED PURSUANT TO THIS SUBSECTION (6.8)(c). IN ADDITION TO RECOMMENDATIONS FOR FURTHER MEASURING THE EFFECTIVENESS OF THE TAX CREDIT, THE RECOMMENDATIONS MUST INCLUDE RECOMMENDATIONS FOR:

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

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

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

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

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

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

SECTION 2. Appropriation. (1) For the 2023-24 state fiscal year, \$78,254 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) \$39,053 for use by taxation services for personal services, which amount is based on an assumption that the division will require an additional 0.5 FTE;

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

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

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

(2) For the 2023-24 state fiscal year, \$10,881 is appropriated to the department of personnel. This appropriation is from reappropriated funds received from the department of revenue under subsection (1)(d) 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 at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; 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 such period, 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 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 23, 2023