

HOUSE FLOOR AMENDMENT

Second Reading

BY REPRESENTATIVES Landgraf, Beckman,
and Carver

1 Amend reengrossed bill, page 13, after line 26 insert:

2 **"SECTION 2.** In Colorado Revised Statutes, **add** 39-22-104.8
3 as follows:

4 **39-22-104.8. Pretax payments - leave savings account -**
5 **definitions.** (1) AS USED IN THIS SECTION:

6 (a) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

7 (b) "ELIGIBLE LEAVE" MEANS LEAVE THAT AN INDIVIDUAL
8 TAKES FROM WORK FOR ONE OR MORE OF THE FOLLOWING REASONS:

9 (I) THE BIRTH OF A CHILD OF THE INDIVIDUAL AND IN ORDER TO
10 CARE FOR THE CHILD;

11 (II) THE PLACEMENT OF A CHILD WITH THE INDIVIDUAL FOR
12 ADOPTION OR FOSTER CARE;

13 (III) TO CARE FOR A SPOUSE, CHILD, OR PARENT OF THE
14 INDIVIDUAL IF THE SPOUSE, CHILD, OR PARENT HAS A SERIOUS HEALTH
15 CONDITION;

16 (IV) A SERIOUS HEALTH CONDITION THAT MAKES THE
17 INDIVIDUAL UNABLE TO PERFORM THE FUNCTIONS OF THE POSITION OF
18 THE INDIVIDUAL; OR

19 (V) ANY QUALIFYING EXIGENCY, AS DETERMINED BY THE
20 UNITED STATES SECRETARY OF LABOR, ARISING OUT OF THE FACT THAT
21 A SPOUSE, CHILD, OR PARENT OF THE INDIVIDUAL IS ON COVERED
22 ACTIVE DUTY, OR HAS BEEN NOTIFIED OF AN IMPENDING CALL OR ORDER
23 TO COVERED ACTIVE DUTY, IN THE UNITED STATES ARMED FORCES
24 THAT WOULD ENTITLE THE INDIVIDUAL FOR LEAVE UNDER SECTION 29
25 U.S.C. SEC. 2612 (a)(1)(E).

26 (c) "FINANCIAL INSTITUTION" MEANS ANY STATE BANK, STATE
27 TRUST COMPANY, SAVINGS AND LOAN ASSOCIATION, FEDERALLY
28 CHARTERED CREDIT UNION DOING BUSINESS IN THE STATE, CREDIT
29 UNION CHARTERED BY THE STATE, NATIONAL BANK, BROKER-DEALER,
30 MUTUAL FUND, INSURANCE COMPANY, OR OTHER SIMILAR FINANCIAL
31 ENTITY.

32 (d) "LEAVE SAVINGS ACCOUNT" OR "ACCOUNT" MEANS AN
33 ACCOUNT WITH A FINANCIAL INSTITUTION DESIGNATED AS SUCH IN
34 ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION.

35 (2) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
36 JANUARY 1, 2020, AMOUNTS WITHHELD FROM AN INDIVIDUAL'S WAGES
37 THAT ARE DEPOSITED IN A LEAVE SAVINGS ACCOUNT, UP TO AN ANNUAL
38 MAXIMUM OF FIVE THOUSAND DOLLARS, ARE EXCLUDED FROM THE
39 INDIVIDUAL'S FEDERAL TAXABLE INCOME FOR PURPOSES OF THE STATE

1 INCOME TAX IMPOSED BY SECTION 39-22-104.

2 (b) AN EMPLOYER MAY MAKE A CONTRIBUTION TO AN
3 EMPLOYEE'S LEAVE SAVINGS ACCOUNT IN AN AMOUNT UP TO A
4 MATCHING CONTRIBUTION FOR ANY CONTRIBUTION MADE BY THE
5 EMPLOYEE. EMPLOYER CONTRIBUTIONS TO AN EMPLOYEE'S LEAVE
6 SAVINGS ACCOUNT CONSTITUTE A DEDUCTION FROM THE EMPLOYER'S
7 FEDERAL TAXABLE INCOME, PURSUANT TO SECTIONS 39-22-104 (4)(z).

8 (3) BEGINNING JANUARY 1, 2020, AN INDIVIDUAL MAY OPEN AN
9 ACCOUNT WITH A FINANCIAL INSTITUTION TO BE USED BY THE
10 INDIVIDUAL SOLELY AS A LEAVE SAVINGS ACCOUNT. FOR PURPOSES OF
11 THE INCOME TAX BENEFIT CONFERRED UNDER THIS SECTION, MONEY
12 MAY REMAIN IN AN ACCOUNT FOR AN UNLIMITED DURATION WITHOUT
13 BEING SUBJECT TO RECAPTURE OR PENALTY AND MAY BE:

14 (a) WITHDRAWN BY THE INDIVIDUAL AND USED TO PAY FOR ANY
15 EXPENSE INCURRED BY THE INDIVIDUAL WHILE HE OR SHE IS ON
16 ELIGIBLE LEAVE; OR

17 (b) USED TO PAY A SERVICE FEE THAT IS DEDUCTED BY THE
18 FINANCIAL INSTITUTION.

19 (4) (a) EXCEPT AS SET FORTH IN SUBSECTION (4)(b) OF THIS
20 SECTION, MONEY WITHDRAWN FROM A LEAVE SAVINGS ACCOUNT THAT
21 IS USED FOR ANY PURPOSE OTHER THAN THOSE SPECIFIED IN
22 SUBSECTION (3) OF THIS SECTION IS SUBJECT TO RECAPTURE AS PART OF
23 THE INDIVIDUAL'S INCOME IN THE TAXABLE YEAR IN WHICH IT IS
24 WITHDRAWN AND TO A PENALTY EQUAL TO TEN PERCENT OF THE
25 AMOUNT RECAPTURED. THE PENALTY APPLIES WHETHER THE MONEY
26 WAS EXCLUDED UNDER THIS SECTION OR SUBTRACTED FROM FEDERAL
27 TAXABLE INCOME UNDER SECTION 39-22-104 (4)(z) OR 39-22-304
28 (3)(p).

29 (b) IF THE INDIVIDUAL WHO CREATED THE LEAVE SAVINGS
30 ACCOUNT DIES, THEN ALL OF THE MONEY IN THE ACCOUNT THAT WAS
31 SUBTRACTED FROM TAXABLE INCOME IS SUBJECT TO RECAPTURE IN THE
32 TAXABLE YEAR OF THE DEATH, BUT NO PENALTY IS DUE TO THE
33 DEPARTMENT.

34 (5) THE DEPARTMENT SHALL ESTABLISH A FORM FOR AN
35 INDIVIDUAL TO ANNUALLY REPORT INFORMATION ABOUT A LEAVE
36 SAVINGS ACCOUNT INCLUDING, BUT NOT LIMITED TO, HOW THE MONEY
37 FROM THE FUND IS USED, AND IDENTIFY ANY SUPPORTING
38 DOCUMENTATION THAT IS REQUIRED TO BE MAINTAINED. TO BE
39 ELIGIBLE FOR THE TAX BENEFIT UNDER THIS SECTION, AN INDIVIDUAL
40 MUST ANNUALLY FILE WITH HIS OR HER STATE INCOME TAX RETURN THE
41 COMPLETED FORM AND ANY OTHER SUPPORTING DOCUMENTATION THE
42 DEPARTMENT REQUIRES. THE INDIVIDUAL IS RESPONSIBLE FOR
43 MAINTAINING DOCUMENTATION FOR THE ACCOUNT AND FOR ANY USE

1 OF MONEY FROM THE ACCOUNT.

2 (6) (a) A FINANCIAL INSTITUTION IS NOT REQUIRED TO:

3 (I) DESIGNATE AN ACCOUNT AS A LEAVE SAVINGS ACCOUNT IN

4 THE FINANCIAL INSTITUTION'S ACCOUNT CONTRACTS OR SYSTEMS OR IN

5 ANY OTHER WAY;

6 (II) TRACK THE USE OF MONEY WITHDRAWN FROM A LEAVE

7 SAVINGS ACCOUNT; OR

8 (III) REPORT ANY INFORMATION TO THE DEPARTMENT OR ANY

9 OTHER GOVERNMENTAL AGENCY THAT IS NOT OTHERWISE REQUIRED BY

10 LAW.

11 (b) A FINANCIAL INSTITUTION IS NOT RESPONSIBLE OR LIABLE

12 FOR:

13 (I) DETERMINING OR ENSURING THAT MONEY IN A LEAVE

14 SAVINGS ACCOUNT IS USED FOR AN ELIGIBLE EXPENSE; OR

15 (II) REPORTING OR REMITTING TAXES OR PENALTIES RELATED

16 TO THE USE OF MONEY IN A LEAVE SAVINGS ACCOUNT.

17 (c) IN IMPLEMENTING THIS SECTION, THE DEPARTMENT SHALL

18 NOT ESTABLISH ANY ADMINISTRATIVE, REPORTING, OR OTHER

19 REQUIREMENTS ON FINANCIAL INSTITUTIONS THAT ARE OUTSIDE THE

20 SCOPE OF NORMAL ACCOUNT PROCEDURES.

21 (7) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO

22 PROHIBIT THE DEPARTMENT FROM REQUESTING THAT A FINANCIAL

23 INSTITUTION PROVIDE TO THE DEPARTMENT DOCUMENTS CREATED IN

24 THE NORMAL COURSE OF BUSINESS TO VERIFY INFORMATION PROVIDED

25 TO THE DEPARTMENT BY A TAXPAYER WHO CREATED A LEAVE SAVINGS

26 ACCOUNT.

27 **SECTION 3.** In Colorado Revised Statutes, 39-22-104, **add**

28 (4)(z) as follows:

29 **39-22-104. Income tax imposed on individuals, estates, and**

30 **trusts - single rate - legislative declaration - definitions - repeal.**

31 (4) There shall be subtracted from federal taxable income:

32 (z) (I) FOR INCOME TAX YEARS BEGINNING ON OR AFTER

33 JANUARY 1, 2020:

34 (A) FOR AN EMPLOYER, AN AMOUNT EQUAL TO THE AMOUNT

35 THE EMPLOYER CONTRIBUTES TO AN EMPLOYEE'S LEAVE SAVINGS

36 ACCOUNT;

37 (B) FOR AN EMPLOYEE, AN AMOUNT EQUAL TO THE AMOUNT

38 WITHHELD FROM AND INDIVIDUAL'S WAGES THAT ARE DEPOSITED IN THE

39 EMPLOYEE'S LEAVE SAVINGS ACCOUNT; AND

40 (C) AN AMOUNT EQUAL TO ANY INTEREST AND OTHER INCOME

41 EARNED ON THE INVESTMENT OF THE MONEY DURING THE TAXABLE

42 YEAR IN A TAXPAYER'S LEAVE SAVINGS ACCOUNT.

43 (II) AS USED IN THIS SUBSECTION (4)(z):

(A) "EMPLOYEE" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-22-604 (2)(a).

(B) "LEAVE SAVINGS ACCOUNT" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-22-104.8 (1)(d).

SECTION 4. In Colorado Revised Statutes, 39-22-304, add (3)(p) as follows:

39-22-304. Net income of corporation - legislative declaration - definitions - repeal. (3) There shall be subtracted from federal taxable income:

(p) FOR INCOME TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2020, FOR AN EMPLOYER, AN AMOUNT EQUAL TO THE AMOUNT THE EMPLOYER CONTRIBUTES TO AN EMPLOYEE'S LEAVE SAVINGS ACCOUNT CREATED IN ACCORDANCE WITH SECTION 39-22-104.8. THIS SUBTRACTION IS ALLOWABLE EVEN IF THE CONTRIBUTION IS OTHERWISE EXCLUDED FROM FEDERAL TAXABLE INCOME. AS USED IN THIS SUBSECTION (3)(p), "EMPLOYEE" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-22-604 (2)(a).

SECTION 5. In Colorado Revised Statutes, **add** 39-22-542 as follows:

39-22-542. Credit for employers - family leave - definition.

(1) AS USED IN THIS SECTION, "EMPLOYEE" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-22-604 (2)(a).

(2) (a) EXCEPT AS SET FORTH IN SUBSECTION (3) OF THIS SECTION, FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2020, A TAXPAYER IS ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE 22 THAT IS EQUAL TO A PERCENTAGE OF THE AMOUNT THE TAXPAYER PAID TO AN EMPLOYEE FOR THE PERIOD THE EMPLOYEE WAS ON LEAVE FROM WORK DURING THE TAXABLE YEAR FOR ONE OF THE FOLLOWING REASONS:

(I) THE BIRTH OF A CHILD OF THE EMPLOYEE AND IN ORDER TO CARE FOR THE CHILD;

(II) THE PLACEMENT OF A CHILD WITH THE EMPLOYEE FOR ADOPTION OR FOSTER CARE;

(III) TO CARE FOR A SPOUSE, CHILD, OR PARENT OF THE EMPLOYEE IF THE SPOUSE, CHILD, OR PARENT HAS A SERIOUS HEALTH CONDITION; OR

(IV) A SERIOUS HEALTH CONDITION THAT MAKES THE EMPLOYEE UNABLE TO PERFORM THE FUNCTIONS OF THE POSITION OF THE EMPLOYEE.

(b) THE APPLICABLE PERCENTAGE FOR PURPOSES OF THE CREDIT IN SUBSECTION (2)(a) OF THIS SECTION IS:

(I) FIFTY PERCENT FOR A TAXPAYER THAT EMPLOYS FEWER THAN FIFTY EMPLOYEES DURING THE TAXABLE YEAR; OR

19 Renumber succeeding section accordingly.

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