

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-1261.01 Ed DeCecco x4216

SENATE BILL 18-265

SENATE SPONSORSHIP

Hill,

HOUSE SPONSORSHIP

(None),

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 CONCERNING STATE INCOME TAX BENEFITS FOR AMOUNTS
102 CONTRIBUTED TO A CHILD CARE SAVINGS ACCOUNT.

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>.)

Section 1 of the bill establishes a child care savings account, which is an account with a financial institution from which an individual uses money to pay a child care facility for the care of a dependent who is less than 6 years old (account). To be eligible to create an account, an individual must have federal taxable income of less than \$90,000, or, in the case of individuals filing a joint return, \$180,000.

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.

A taxpayer may claim a credit that is equal to 10% of the amount that the taxpayer contributes to an account. The maximum credit allowed for an income tax year for a contribution to a single account is \$250. A taxpayer may contribute to multiple accounts but cannot claim more than \$25,000 of credits in an income tax year. A credit for a contribution to one's own account is refundable. All other credits are not refundable, but unused credits may be carried forward up to 5 years.

Money in the account may only be used for payments to the child care facility or bank fees. If an individual uses money for an unauthorized purpose, then any credit given for such amount is subject to recapture in the year it is withdrawn and there is a penalty equal to 10% of the credit recaptured.

The department of revenue is required to establish forms that an individual must annually file related to an account.

Section 2 allows an account holder to subtract an amount equal to the interest or income earned during the income tax year from the money in an account from his or her federal taxable income.

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

SECTION 1. In Colorado Revised Statutes, **add** 39-22-539 as follows:

39-22-539. Child care savings account - credit - legislative declaration - definitions. (1) THE GENERAL ASSEMBLY HEREBY DECLARES THAT MANY WORKING PARENTS OFTEN EXPERIENCE A SUBSTANTIAL FINANCIAL BURDEN PAYING FOR CHILD CARE EXPENSES THAT ALLOW THEM TO WORK OR PARTICIPATE IN WORKFORCE TRAINING. HIGH-QUALITY CHILD CARE IS CRUCIAL NOT ONLY FOR WORKING PARENTS, BUT ALSO FOR THEIR CHILDREN WHO EXPERIENCE CRITICAL BRAIN DEVELOPMENT FROM BIRTH TO AGE FIVE. THE COSTS OF CHILD CARE AND EARLY CHILDHOOD EDUCATION OFTEN EXCEED THE AMOUNT OF A MONTHLY MORTGAGE PAYMENT OR RENT. TO SUPPORT FAMILIES WITH YOUNG CHILDREN, IT IS IMPORTANT TO CREATE A MEANS TO ASSIST WORKING FAMILIES AND ENCOURAGE THEM TO SAVE FOR THEIR CHILD CARE EXPENSES. THE PURPOSE OF THE TAX BENEFITS IN THIS SECTION IS TO

1 HELP WORKING PARENTS AFFORD CHILD CARE.

2 (2) AS USED IN THIS SECTION:

3 (a) "CHILD CARE FACILITY" HAS THE SAME MEANING AS SET FORTH
4 IN SECTION 39-22-121 (6.5).

5 (b) "CHILD CARE SAVINGS ACCOUNT" OR "ACCOUNT" MEANS AN
6 ACCOUNT WITH A FINANCIAL INSTITUTION DESIGNATED AS SUCH IN
7 ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION.

8 (c) "CREDIT" MEANS THE CREDIT AGAINST INCOME TAX CREATED
9 IN THIS SECTION.

10 (d) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

11 (e) "FINANCIAL INSTITUTION" MEANS ANY STATE BANK, STATE
12 TRUST COMPANY, SAVINGS AND LOAN ASSOCIATION, FEDERALLY
13 CHARTERED CREDIT UNION DOING BUSINESS IN THE STATE, CREDIT UNION
14 CHARTERED BY THE STATE, NATIONAL BANK, BROKER-DEALER, MUTUAL
15 FUND, INSURANCE COMPANY, OR OTHER SIMILAR FINANCIAL ENTITY
16 QUALIFIED TO DO BUSINESS IN THE STATE.

17 (3) (a) BEGINNING JANUARY 1, 2020, AN INDIVIDUAL WHO MEETS
18 THE ELIGIBILITY REQUIREMENTS SET FORTH IN SUBSECTION (3)(b) OF THIS
19 SECTION MAY OPEN AN ACCOUNT WITH A FINANCIAL INSTITUTION AND
20 DESIGNATE THE ACCOUNT, IN ITS ENTIRETY, AS A CHILD CARE SAVINGS
21 ACCOUNT FOR USE BY THE INDIVIDUAL.

22 (b) TO BE ELIGIBLE TO CREATE A CHILD CARE SAVINGS ACCOUNT,
23 AN INDIVIDUAL'S FEDERAL TAXABLE INCOME FOR THE INCOME TAX YEAR
24 THAT THE ACCOUNT IS CREATED MUST NOT EXCEED NINETY THOUSAND
25 DOLLARS OR, IN THE CASE OF INDIVIDUALS WHO FILE A JOINT FEDERAL
26 RETURN, ONE HUNDRED EIGHTY THOUSAND DOLLARS. IF AFTER CREATING
27 THE ACCOUNT AN INDIVIDUAL EXCEEDS THESE ELIGIBILITY AMOUNTS, NO

1 MORE DEPOSITS IN THE ACCOUNT ARE ELIGIBLE FOR A CREDIT UNDER THIS
2 SECTION.

3 (4) (a) SUBJECT TO THE LIMIT IN SUBSECTION (4)(b) OF THIS
4 SECTION, FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER
5 JANUARY 1, 2020, A TAXPAYER IS ALLOWED A CREDIT AGAINST THE TAX
6 IMPOSED BY THIS ARTICLE 22 THAT IS EQUAL TO TEN PERCENT OF THE
7 AMOUNT THE TAXPAYER CONTRIBUTES TO A CHILD CARE SAVINGS
8 ACCOUNT DURING THE INCOME TAX YEAR.

9 (b) THE MAXIMUM CREDIT ALLOWED FOR AN INCOME TAX YEAR
10 FOR A CONTRIBUTION TO A SINGLE CHILD CARE SAVINGS ACCOUNT IS TWO
11 HUNDRED FIFTY DOLLARS. A TAXPAYER MAY CONTRIBUTE TO MULTIPLE
12 ACCOUNTS BUT SHALL NOT CLAIM MORE THAN TWENTY-FIVE THOUSAND
13 DOLLARS OF CREDITS UNDER THIS SECTION FOR AN INCOME TAX YEAR.

14 (5) IF A TAXPAYER CLAIMS THE CREDIT FOR A CONTRIBUTION TO
15 HIS OR HER OWN CHILD CARE SAVINGS ACCOUNT, THEN THE AMOUNT OF
16 THE CREDIT THAT EXCEEDS THE TAXPAYER'S INCOME TAXES DUE IS
17 REFUNDED TO THE TAXPAYER. FOR ALL OTHER TAXPAYERS, IF THE
18 AMOUNT OF A CREDIT EXCEEDS A TAXPAYER'S ACTUAL TAX LIABILITY FOR
19 AN INCOME TAX YEAR, THE AMOUNT OF THE CREDIT NOT USED TO OFFSET
20 INCOME TAX LIABILITY FOR THE INCOME TAX YEAR IS NOT REFUNDED TO
21 THE TAXPAYER. THE TAXPAYER MAY CARRY FORWARD AND APPLY THE
22 UNUSED CREDIT AGAINST THE INCOME TAX DUE IN EACH OF THE FIVE
23 SUCCEEDING INCOME TAX YEARS, BUT THE TAXPAYER SHALL APPLY THE
24 CREDIT AGAINST THE INCOME TAX DUE FOR THE EARLIEST OF THE INCOME
25 TAX YEARS POSSIBLE. ANY AMOUNT OF THE TAX CREDIT THAT IS NOT USED
26 AFTER THIS PERIOD IS NOT REFUNDABLE.

27 (6) (a) FOR PURPOSES OF THE CREDIT, MONEY MAY REMAIN IN A

1 CHILD CARE SAVINGS ACCOUNT FOR AN UNLIMITED DURATION WITHOUT
2 BEING SUBJECT TO RECAPTURE OR PENALTY AND MAY BE WITHDRAWN BY
3 THE INDIVIDUAL AND PAID TO A CHILD CARE FACILITY FOR THE CARE OF A
4 DEPENDENT WHO IS LESS THAN SIX YEARS OLD OR USED TO PAY A SERVICE
5 FEE THAT IS DEDUCTED BY THE FINANCIAL INSTITUTION.

6 (b) (I) IF AN INDIVIDUAL WITHDRAWS MONEY FROM HIS OR HER
7 CHILD CARE SAVINGS ACCOUNT AND USES IT FOR ANY PURPOSE OTHER
8 THAN THOSE SPECIFIED IN SUBSECTION (6)(a) OF THIS SECTION, THEN ANY
9 CREDIT GIVEN FOR THE AMOUNT WITHDRAWN IS SUBJECT TO RECAPTURE
10 AS PART OF THE INDIVIDUAL'S INCOME IN THE TAXABLE YEAR IN WHICH IT
11 IS WITHDRAWN AND THERE IS A PENALTY EQUAL TO TEN PERCENT OF THE
12 CREDIT RECAPTURED.

13 (II) IF THE INDIVIDUAL WHO CREATED THE CHILD CARE SAVINGS
14 ACCOUNT DIES, THEN ANY CREDITS GIVEN FOR A CONTRIBUTION TO THE
15 ACCOUNT ARE SUBJECT TO RECAPTURE IN THE TAXABLE YEAR OF THE
16 DEATH, BUT NO PENALTY IS DUE TO THE DEPARTMENT.

17 (III) A TAXPAYER WHO RECEIVES A CREDIT FOR A CONTRIBUTION
18 TO ANOTHER PERSON'S CHILD CARE SAVINGS ACCOUNT IS NOT LIABLE FOR
19 ANY RECAPTURE OF THE CREDIT OR ANY PENALTIES IF THE OWNER OF THE
20 ACCOUNT USES MONEY IN THE ACCOUNT FOR ANY PURPOSE OTHER THAN
21 THOSE SPECIFIED IN SUBSECTION (6)(a) OF THIS SECTION.

22 (c) A TAXPAYER IS NOT ELIGIBLE TO CLAIM A CREDIT UNDER
23 SECTION 39-22-119 OR 39-22-119.5 FOR MONEY PAID FROM THE CHILD
24 CARE SAVINGS ACCOUNT. IF A TAXPAYER CLAIMS A CREDIT UNDER
25 SECTION 21 OF THE INTERNAL REVENUE CODE, OR ANY SUCCESSOR
26 SECTION, WITH MONEY FROM AN ACCOUNT, THEN ANY CREDIT GIVEN FOR
27 THE AMOUNT WITHDRAWN IS SUBJECT TO RECAPTURE AS PART OF THE

1 INDIVIDUAL'S INCOME IN THE TAXABLE YEAR IN WHICH IT IS WITHDRAWN
2 AND THERE IS A PENALTY EQUAL TO TEN PERCENT OF THE CREDIT
3 RECAPTURED.

4 (7) THE DEPARTMENT SHALL ESTABLISH FORMS FOR AN
5 INDIVIDUAL TO ANNUALLY REPORT INFORMATION ABOUT A CHILD CARE
6 SAVINGS ACCOUNT, INCLUDING BUT NOT LIMITED TO HOW THE MONEY
7 FROM THE ACCOUNT IS USED, AND IDENTIFY ANY SUPPORTING
8 DOCUMENTATION THAT IS REQUIRED TO BE MAINTAINED. TO BE ELIGIBLE
9 FOR THE CREDIT UNDER THIS SECTION, AN INDIVIDUAL MUST ANNUALLY
10 FILE WITH HIS OR HER STATE INCOME TAX RETURN THE COMPLETED FORM
11 AND ANY OTHER SUPPORTING DOCUMENTATION THE DEPARTMENT
12 REQUIRES. THE INDIVIDUAL IS RESPONSIBLE FOR MAINTAINING
13 DOCUMENTATION FOR THE ACCOUNT AND FOR ANY USE OF MONEY FROM
14 THE ACCOUNT.

15 (8) (a) A FINANCIAL INSTITUTION IS NOT REQUIRED TO:

16 (I) DESIGNATE AN ACCOUNT AS A CHILD CARE SAVINGS ACCOUNT
17 IN THE FINANCIAL INSTITUTION'S ACCOUNT CONTRACTS OR SYSTEMS OR IN
18 ANY OTHER WAY;

19 (II) TRACK THE USE OF MONEY WITHDRAWN FROM A CHILD CARE
20 SAVINGS ACCOUNT; OR

21 (III) REPORT ANY INFORMATION TO THE DEPARTMENT OR ANY
22 OTHER GOVERNMENTAL AGENCY THAT IS NOT OTHERWISE REQUIRED BY
23 LAW.

24 (b) A FINANCIAL INSTITUTION IS NOT RESPONSIBLE OR LIABLE FOR:

25 (I) DETERMINING OR ENSURING THAT MONEY IN A CHILD CARE
26 SAVINGS ACCOUNT IS USED FOR AN ELIGIBLE EXPENSE; OR

27 (II) REPORTING OR REMITTING TAXES OR PENALTIES RELATED TO

1 USE OF MONEY IN A CHILD CARE SAVINGS ACCOUNT.

2 (c) IN IMPLEMENTING THIS SECTION, THE DEPARTMENT SHALL NOT
3 ESTABLISH ANY ADMINISTRATIVE, REPORTING, OR OTHER REQUIREMENTS
4 ON FINANCIAL INSTITUTIONS THAT ARE OUTSIDE THE SCOPE OF NORMAL
5 ACCOUNT PROCEDURES.

6 **SECTION 2.** In Colorado Revised Statutes, 39-22-104, **add**
7 (4)(y) as follows:

8 **39-22-104. Income tax imposed on individuals, estates, and**
9 **trusts - single rate - legislative declaration - definitions - repeal.**

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

11 (y) FOR INCOME TAX YEARS BEGINNING ON OR AFTER JANUARY 1,
12 2020, AN AMOUNT EQUAL TO THE INTEREST OR INCOME EARNED DURING
13 THE INCOME TAX YEAR FROM THE MONEY IN THE TAXPAYER'S CHILD CARE
14 SAVINGS ACCOUNT CREATED IN ACCORDANCE WITH SECTION 39-22-539.

15 **SECTION 3. Act subject to petition - effective date.** This act
16 takes effect at 12:01 a.m. on the day following the expiration of the
17 ninety-day period after final adjournment of the general assembly (August
18 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
19 referendum petition is filed pursuant to section 1 (3) of article V of the
20 state constitution against this act or an item, section, or part of this act
21 within such period, then the act, item, section, or part will not take effect
22 unless approved by the people at the general election to be held in
23 November 2018 and, in such case, will take effect on the date of the
24 official declaration of the vote thereon by the governor.