

**Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 18-1261.01 Ed DeCecco x4216

SENATE BILL 18-265

SENATE SPONSORSHIP

Hill,

HOUSE SPONSORSHIP

(None),

Senate Committees

State, Veterans, & Military Affairs
Finance

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uses money for an unauthorized purpose, then any credit given for such amount is subject to recapture in the year it is withdrawn and there is a penalty equal to 10% of the credit recaptured.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) "BENEFICIARY" MEANS A DEPENDENT WHO IS LESS THAN SIX
4 YEARS OLD OF AN INDIVIDUAL WHO HAS CREATED A CHILD SAVINGS
5 ACCOUNT.

6 (b) "CHILD CARE FACILITY" HAS THE SAME MEANING AS SET FORTH
7 IN SECTION 39-22-121 (6.5).

8 (c) "CHILD CARE SAVINGS ACCOUNT" OR "ACCOUNT" MEANS AN
9 ACCOUNT WITH A FINANCIAL INSTITUTION DESIGNATED AS SUCH IN
10 ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION.

11 (d) "CREDIT" MEANS THE CREDIT AGAINST INCOME TAX CREATED
12 IN THIS SECTION.

13 (e) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

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

20 (3) ===== BEGINNING JANUARY 1, 2020, AN INDIVIDUAL =====
21 MAY OPEN AN ACCOUNT WITH A FINANCIAL INSTITUTION AND DESIGNATE
22 THE ACCOUNT, IN ITS ENTIRETY, AS A CHILD CARE SAVINGS ACCOUNT FOR
23 USE BY THE INDIVIDUAL. AN INDIVIDUAL MAY NOT HAVE MORE THAN ONE
24 ACCOUNT BUT MAY JOINTLY OWN AN ACCOUNT WITH ANOTHER PERSON IF
25 THEY FILE A JOINT INCOME TAX RETURN.

26 =====

27 (4) (a) SUBJECT TO THE LIMITATIONS IN SUBSECTIONS (4)(b) AND

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

6 (b) (I) FOR AN INDIVIDUAL TO CLAIM A CREDIT FOR A
7 CONTRIBUTION TO HIS OR HER CHILD CARE SAVINGS ACCOUNT, THE
8 INDIVIDUAL MUST HAVE:

9 (A) COMPENSATION DURING THE INCOME TAX YEAR THAT IS
10 SUBJECT TO WITHHOLDING UNDER SECTION 39-22-604; AND

11 (B) FEDERAL TAXABLE INCOME FOR THE INCOME TAX YEAR THAT
12 IS LESS THAN OR EQUAL TO NINETY THOUSAND DOLLARS OR, IN THE CASE
13 OF INDIVIDUALS WHO FILE A JOINT FEDERAL RETURN, ONE HUNDRED
14 EIGHTY THOUSAND DOLLARS.

15 (II) AN EMPLOYER SHALL NOT CLAIM A CREDIT FOR A
16 CONTRIBUTION TO AN EMPLOYEE'S CHILD CARE SAVINGS ACCOUNT IF THE
17 EMPLOYEE'S WAGES FROM THE EMPLOYER ARE GREATER THAN NINETY
18 THOUSAND DOLLARS FOR THE INCOME TAX YEAR.

19 (c) THE MAXIMUM CREDIT ALLOWED FOR AN INCOME TAX YEAR
20 FOR A CONTRIBUTION TO A SINGLE CHILD CARE SAVINGS ACCOUNT IS TWO
21 HUNDRED FIFTY DOLLARS. AN EMPLOYER MAY CONTRIBUTE TO THE CHILD
22 CARE SAVINGS ACCOUNTS OF MULTIPLE EMPLOYEES BUT SHALL NOT CLAIM
23 MORE THAN TWENTY-FIVE THOUSAND DOLLARS OF CREDITS UNDER THIS
24 SECTION FOR AN INCOME TAX YEAR.

25 (5) IF A TAXPAYER CLAIMS THE CREDIT FOR A CONTRIBUTION TO
26 HIS OR HER OWN CHILD CARE SAVINGS ACCOUNT, THEN THE AMOUNT OF
27 THE CREDIT THAT EXCEEDS THE TAXPAYER'S INCOME TAXES DUE IS

1 REFUNDED TO THE TAXPAYER. FOR ALL OTHER TAXPAYERS, IF THE
2 AMOUNT OF A CREDIT EXCEEDS A TAXPAYER'S ACTUAL TAX LIABILITY FOR
3 AN INCOME TAX YEAR, THE AMOUNT OF THE CREDIT NOT USED TO OFFSET
4 INCOME TAX LIABILITY FOR THE INCOME TAX YEAR IS NOT REFUNDED TO
5 THE TAXPAYER. THE TAXPAYER MAY CARRY FORWARD AND APPLY THE
6 UNUSED CREDIT AGAINST THE INCOME TAX DUE IN EACH OF THE FIVE
7 SUCCEEDING INCOME TAX YEARS, BUT THE TAXPAYER SHALL APPLY THE
8 CREDIT AGAINST THE INCOME TAX DUE FOR THE EARLIEST OF THE INCOME
9 TAX YEARS POSSIBLE. ANY AMOUNT OF THE TAX CREDIT THAT IS NOT USED
10 AFTER THIS PERIOD IS NOT REFUNDABLE.

11 (6) (a) FOR PURPOSES OF THE CREDIT, MONEY MAY REMAIN IN A
12 CHILD CARE SAVINGS ACCOUNT FOR AN UNLIMITED DURATION WITHOUT
13 BEING SUBJECT TO RECAPTURE OR PENALTY AND MAY BE WITHDRAWN BY
14 THE INDIVIDUAL AND PAID TO A CHILD CARE FACILITY FOR THE CARE OF A
15 BENEFICIARY OR USED TO PAY A SERVICE FEE THAT IS DEDUCTED BY THE
16 FINANCIAL INSTITUTION. THE INDIVIDUAL MUST PROVIDE THE
17 DEPARTMENT WITH A BENEFICIARY'S TAX IDENTIFICATION NUMBER.

18 (b) (I) IF AN INDIVIDUAL WITHDRAWS MONEY FROM HIS OR HER
19 CHILD CARE SAVINGS ACCOUNT AND USES IT FOR ANY PURPOSE OTHER
20 THAN THOSE SPECIFIED IN SUBSECTION (6)(a) OF THIS SECTION, THEN ANY
21 CREDIT GIVEN FOR THE AMOUNT WITHDRAWN IS SUBJECT TO RECAPTURE
22 AS PART OF THE INDIVIDUAL'S INCOME IN THE TAXABLE YEAR IN WHICH IT
23 IS WITHDRAWN AND THERE IS A PENALTY EQUAL TO TEN PERCENT OF THE
24 CREDIT RECAPTURED OR, IF THE CREDIT WAS CLAIMED BY ANOTHER
25 PERSON, THE INDIVIDUAL IS SUBJECT TO A PENALTY THAT IS EQUAL TO THE
26 AMOUNT OF THE CREDIT GRANTED PLUS AN AMOUNT EQUAL TO TEN
27 PERCENT OF THE CREDIT.

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

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

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

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

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

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

1 (III) REPORT ANY INFORMATION TO THE DEPARTMENT OR ANY
2 OTHER GOVERNMENTAL AGENCY THAT IS NOT OTHERWISE REQUIRED BY
3 LAW.

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

5 (I) DETERMINING OR ENSURING THE FAILURE OF AN ACCOUNT
6 OWNER TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION, THE
7 ELIGIBILITY OF AN ACCOUNT OWNER TO CLAIM A CREDIT, OR THAT MONEY
8 IN A CHILD CARE SAVINGS ACCOUNT IS USED FOR AN ELIGIBLE EXPENSE; OR

9 (II) REPORTING OR REMITTING TAXES OR PENALTIES RELATED TO
10 USE OF MONEY IN A CHILD CARE SAVINGS ACCOUNT.

11 (c) IN IMPLEMENTING THIS SECTION, THE DEPARTMENT SHALL NOT
12 ESTABLISH ANY ADMINISTRATIVE, REPORTING, OR OTHER REQUIREMENTS
13 ON FINANCIAL INSTITUTIONS THAT ARE OUTSIDE THE SCOPE OF NORMAL
14 ACCOUNT PROCEDURES.

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

17 **39-22-104. Income tax imposed on individuals, estates, and**
18 **trusts - single rate - legislative declaration - definitions - repeal.**

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

20 (y) FOR INCOME TAX YEARS BEGINNING ON OR AFTER JANUARY 1,
21 2020, AN AMOUNT EQUAL TO THE INTEREST OR INCOME EARNED DURING
22 THE INCOME TAX YEAR FROM THE MONEY IN THE TAXPAYER'S CHILD CARE
23 SAVINGS ACCOUNT CREATED IN ACCORDANCE WITH SECTION 39-22-539.

24 **SECTION 3. Act subject to petition - effective date.** This act
25 takes effect at 12:01 a.m. on the day following the expiration of the
26 ninety-day period after final adjournment of the general assembly (August
27 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a

1 referendum petition is filed pursuant to section 1 (3) of article V of the
2 state constitution against this act or an item, section, or part of this act
3 within such period, then the act, item, section, or part will not take effect
4 unless approved by the people at the general election to be held in
5 November 2018 and, in such case, will take effect on the date of the
6 official declaration of the vote thereon by the governor.