

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 23-0633.01 Zach Blaes x4348

HOUSE BILL 23-1046

HOUSE SPONSORSHIP

Armagost,

SENATE SPONSORSHIP

(None),

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING AN INCOME TAX CREDIT FOR AN EMPLOYER RELATED TO
102 AN EMPLOYEE'S PAID LEAVE OF ABSENCE FOR THE PURPOSE OF
103 ADOPTING A CHILD.

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>.)

Beginning January 1, 2024, an employer is allowed an income tax credit in an amount equal to 50% of the employer's expenses incurred from voluntarily paying:

- An employee during a period of leave for the purpose of adopting a child; and

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.

- For temporary replacement help, if any, during an employee's pre-adoption.

The maximum amount of pre-adoption leave for which an employer can claim the credit is 12 weeks per employee. To be eligible for the credit, an employer must have a written policy offering pre-adoption leave. The credit is limited to pre-adoption leave for employees who have been employed for at least one year and who for the preceding year earned less than \$80,000. The credit does not include the cost of any compensation in addition to wages that an employer pays or provides to an employee.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 39-22-549 as
3 follows:

4 **39-22-549. Tax credit for employers offering pre-adoption**
5 **leave - legislative declaration - definitions - repeal.** (1) (a) IN
6 ACCORDANCE WITH SECTION 39-21-304 (1), WHICH REQUIRES EACH BILL
7 THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE A TAX PREFERENCE
8 PERFORMANCE STATEMENT AS PART OF A STATUTORY LEGISLATIVE
9 DECLARATION, THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE
10 GENERAL LEGISLATIVE PURPOSE OF THIS TAX EXPENDITURE IS TO INDUCE
11 CERTAIN DESIGNATED BEHAVIOR BY TAXPAYERS. SPECIFICALLY, THIS TAX
12 EXPENDITURE IS INTENDED TO ENCOURAGE TAXPAYERS THAT ARE
13 EMPLOYERS TO OFFER PAID PRE-ADOPTION LEAVE TO EMPLOYEES WHO ARE
14 ADOPTING A CHILD.

15 (b) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL
16 MEASURE THE EFFECTIVENESS OF THE TAX CREDIT IN ACHIEVING THE
17 PURPOSE SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION BASED ON THE
18 NUMBER OF CREDITS THAT ARE CLAIMED.

19 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
20 REQUIRES:

1 (a) "ADOPTION", "ADOPTING", OR "ADOPT" MEANS THE LEGAL
2 ADOPTION OF A CHILD IN ACCORDANCE WITH PART 2 OF ARTICLE 5 OF TITLE
3 19.

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

6 (c) "PRE-ADOPTION LEAVE" MEANS A PERIOD OF ABSENCE RELATED
7 TO A QUALIFIED EMPLOYEE'S ADOPTION OF A CHILD FOR THE PURPOSE OF
8 FACILITATING THE PLACEMENT OF A CHILD AVAILABLE FOR ADOPTION,
9 COMPLETING ANY REQUIRED TRAINING AND HOME STUDY COURSES,
10 MEETING WITH LEGAL COUNSEL, ATTENDING A HEARING ON A PETITION
11 FOR ADOPTION, OTHERWISE PREPARING FOR AN EMPLOYEE'S ADOPTION OF
12 A CHILD, OR BONDING AND ADJUSTING IMMEDIATELY AFTER PLACEMENT
13 OF AN ADOPTED CHILD.

14 (d) "QUALIFIED EMPLOYEE" MEANS AN INDIVIDUAL WHO HAS BEEN
15 EMPLOYED BY THE QUALIFIED TAXPAYER FOR AT LEAST ONE YEAR, AND
16 WHO FOR THE PRECEDING YEAR EARNED WAGES OF EIGHTY THOUSAND
17 DOLLARS OR LESS.

18 (e) "QUALIFIED TAXPAYER" MEANS AN EMPLOYER THAT DEDUCTS
19 AND WITHHOLDS AMOUNTS FROM THE WAGES PAID TO A QUALIFIED
20 EMPLOYEE PURSUANT TO SECTION 39-22-604 (3) AND THAT HAS A
21 WRITTEN PRE-ADOPTION LEAVE POLICY OFFERING:

22 (I) AT LEAST TWO WEEKS OF PAID PRE-ADOPTION LEAVE FOR EACH
23 FULL-TIME QUALIFIED EMPLOYEE AND A PROPORTIONATE AMOUNT OF
24 PRE-ADOPTION LEAVE FOR EACH PART-TIME QUALIFIED EMPLOYEE; AND

25 (II) A RATE OF PAYMENT FOR PRE-ADOPTION LEAVE THAT IS NOT
26 LESS THAN FIFTY PERCENT OF THE WAGES NORMALLY PAID TO THE
27 QUALIFIED EMPLOYEE.

1 (f) "WAGES" HAS THE SAME MEANING AS SET FORTH IN SECTION
2 3401 (a) OF THE INTERNAL REVENUE CODE.

3 (3) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
4 JANUARY 1, 2024, BUT BEFORE JANUARY 1, 2029, A TAXPAYER IS
5 ALLOWED A CREDIT AGAINST THE INCOME TAXES IMPOSED BY THIS
6 ARTICLE 22 IN AN AMOUNT EQUAL TO FIFTY PERCENT OF THE TAXPAYER'S
7 EXPENSES INCURRED FROM VOLUNTARILY PAYING:

8 (I) AN EMPLOYEE FOR PRE-ADOPTION LEAVE; AND

9 (II) FOR TEMPORARY REPLACEMENT HELP, IF ANY, DURING AN
10 EMPLOYEE'S PRE-ADOPTION LEAVE.

11 (b) (I) THE MAXIMUM AMOUNT OF PRE-ADOPTION LEAVE FOR ANY
12 QUALIFIED EMPLOYEE FOR WHICH A QUALIFIED TAXPAYER MAY CLAIM A
13 TAX CREDIT PURSUANT TO THIS SECTION IS TWELVE WEEKS.

14 (II) THE TAX CREDIT ALLOWED PURSUANT TO THIS SECTION WITH
15 RESPECT TO ANY QUALIFIED EMPLOYEE FOR THE APPLICABLE TAX YEAR
16 MUST NOT EXCEED AN AMOUNT EQUAL TO FIFTY PERCENT OF THE PRODUCT
17 OF THE QUALIFIED EMPLOYEE'S NORMAL HOURLY WAGES AND THE NUMBER
18 OF HOURS OF PRE-ADOPTION LEAVE THE QUALIFIED EMPLOYEE USED. IF A
19 QUALIFIED EMPLOYEE IS NOT PAID AN HOURLY WAGE, A QUALIFIED
20 EMPLOYEE'S WAGES MUST BE PRORATED TO AN HOURLY WAGE RATE TO
21 CALCULATE THE CREDIT.

22 (III) THE TAX CREDIT ALLOWED PURSUANT TO THIS SECTION DOES
23 NOT INCLUDE THE COST OF ANY COMPENSATION IN ADDITION TO WAGES
24 THAT A QUALIFIED TAXPAYER PAYS OR PROVIDES TO A QUALIFIED
25 EMPLOYEE.

26 (c) ANY PRE-ADOPTION LEAVE THAT IS PAID BY THE STATE OR BY
27 A POLITICAL SUBDIVISION OF THE STATE OR THAT IS REQUIRED TO BE PAID

1 BY LAW IS NOT INCLUDED IN DETERMINING THE AMOUNT OF THE TAX
2 CREDIT ALLOWED PURSUANT TO THIS SECTION.

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

12 (5) UPON THE REQUEST OF THE DEPARTMENT OF REVENUE, A
13 QUALIFIED TAXPAYER SHALL PROVIDE THE DEPARTMENT WITH
14 DOCUMENTATION THAT A QUALIFIED EMPLOYEE PARTICIPATED IN THE
15 ADOPTION PROCESS, INCLUDING DOCUMENTATION THAT A QUALIFIED
16 EMPLOYEE ATTENDED A TRAINING REQUIRED FOR ADOPTION, COMPLETED
17 THE HOME STUDY REQUIRED BY SECTION 19-5-207, ENGAGED IN THE
18 ADOPTION MATCHING PROCESS, ENGAGED IN THE ADOPTION PLACEMENT
19 PROCESS, OR FILED A PETITION FOR ADOPTION. IF THE QUALIFIED
20 TAXPAYER CANNOT PROVIDE THE DOCUMENTATION, THEN THE QUALIFIED
21 TAXPAYER IS INELIGIBLE FOR THE CREDIT UNDER THIS SECTION.

22 (6) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2034.

23 **SECTION 2. Act subject to petition - effective date.** This act
24 takes effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly; except
26 that, if a referendum petition is filed pursuant to section 1 (3) of article V
27 of the state constitution against this act or an item, section, or part of this

1 act within such period, then the act, item, section, or part will not take
2 effect unless approved by the people at the general election to be held in
3 November 2024 and, in such case, will take effect on the date of the
4 official declaration of the vote thereon by the governor.