

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 23-0683.01 Zach Blaes x4348

HOUSE BILL 23-1091

HOUSE SPONSORSHIP

Pugliese and Kipp,

SENATE SPONSORSHIP

Marchman and Rich,

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE INCOME TAX CREDIT FOR A QUALIFYING**
102 **CONTRIBUTION TO PROMOTE CHILD CARE IN THE STATE, AND, IN**
103 **CONNECTION THEREWITH, CONTINUING THE CREDIT FOR THREE**
104 **YEARS AND EXPANDING THE TYPES OF CONTRIBUTIONS THAT**
105 **QUALIFY FOR THE CREDIT.**

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>.)

A taxpayer who makes a monetary contribution to promote child care in the state is allowed an income tax credit that is equal to 50% of the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

total value of the contribution. This exemption is currently available for income tax years that commence prior to January 1, 2025. The bill extends the credit for 3 years and increases the types of contributions that qualify for the tax credit to include in-kind donations of real property, which include the value of leasing real property below market value, to promote child care.

The bill adds a statutory legislative declaration to comply with an existing statutory requirement that any bill that extends a tax expenditure include a statutory legislative declaration. The bill also requires the state auditor to prepare the tax expenditure evaluation report for the credit that is periodically required by current law in the income tax year commencing January 1, 2026.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-22-121, **amend**
3 (1.5), (2), and (7); and **add** (6.8) as follows:

4 **39-22-121. Credit for child care facilities - legislative**
5 **declaration - definitions - repeal.** (1.5) (a) For income tax years
6 commencing prior to ~~January 1, 2025~~ JANUARY 1, 2028, any taxpayer who
7 makes a monetary OR IN-KIND contribution to promote child care in the
8 state is allowed a credit against the income tax imposed by this article 22
9 in an amount equal to fifty percent of the total value of the contribution
10 except as otherwise provided in subsections (5) and (6.7) of this section.
11 AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES,
12 "IN-KIND CONTRIBUTION" MEANS A CONVEYANCE OF AN INTEREST IN REAL
13 PROPERTY. AN IN-KIND CONTRIBUTION ALSO INCLUDES THE CONVEYANCE
14 OF A LEASEHOLD INTEREST IN REAL PROPERTY THE VALUE OF WHICH IS
15 BELOW THE FAIR MARKET VALUE OF THE LEASEHOLD INTEREST AT THE
16 TIME THE CONVEYANCE IS MADE. THE VALUE OF A CONVEYANCE OF A
17 LEASEHOLD INTEREST FOR WHICH A TAX CREDIT MAY BE CLAIMED AS AN
18 IN-KIND CONTRIBUTION PURSUANT TO THIS SECTION IS THE DIFFERENCE
19 BETWEEN THE FAIR MARKET VALUE OF THE LEASEHOLD INTEREST AND THE

1 AMOUNT THE TAXPAYER IS TO BE PAID FOR CONVEYING THE LEASEHOLD
2 INTEREST.

3 (b) (I) IF A TAXPAYER CLAIMS A CREDIT FOR AN IN-KIND
4 CONTRIBUTION VALUED OVER FIVE THOUSAND DOLLARS, THE TAXPAYER
5 MUST ATTACH TO THE TAXPAYER'S TAX RETURN A QUALIFIED APPRAISAL
6 OF THE IN-KIND CONTRIBUTION VALUED BY A QUALIFIED APPRAISER.

7 (II) AS USED IN THIS SUBSECTION (1.5)(b), "QUALIFIED APPRAISAL"
8 MEANS AN APPRAISAL DOCUMENT THAT:

9 (A) A QUALIFIED APPRAISER PREPARES, SIGNS, AND DATES IN
10 ACCORDANCE WITH GENERALLY ACCEPTED APPRAISAL STANDARDS;

11 (B) IS DATED NO EARLIER THAN SIXTY DAYS BEFORE THE DATE OF
12 THE IN-KIND CONTRIBUTION AND DATED NO LATER THAN THE DATE OF THE
13 IN-KIND CONTRIBUTION; AND

14 (C) DOES NOT INVOLVE A PROHIBITED APPRAISAL FEE.

15 (III) AS USED IN THIS SUBSECTION (1.5)(b), "QUALIFIED
16 APPRAISER" MEANS AN INDIVIDUAL WITH VERIFIABLE EDUCATION AND
17 EXPERIENCE IN VALUING PROPERTY FOR WHICH THE APPRAISAL IS
18 PERFORMED. TO BE A QUALIFIED APPRAISER, AN INDIVIDUAL MUST:

19 (A) HAVE EARNED AN APPRAISAL DESIGNATION FROM A
20 GENERALLY RECOGNIZED PROFESSIONAL APPRAISAL ORGANIZATION;

21 (B) REGULARLY PREPARE APPRAISALS IN EXCHANGE FOR
22 PAYMENT;

23 (C) NOT BE RELATED TO OR EMPLOYED BY THE TAXPAYER; AND

24 (D) NOT BE A PARTY TO THE IN-KIND CONTRIBUTION BEING
25 APPRAISED PURSUANT TO THIS SUBSECTION (1.5)(b).

26 (2) Monetary OR IN-KIND contributions to promote child care in
27 the state must include the following types of contributions:

1 (a) ~~Donating money~~ DONATIONS for the establishment or
2 operation of a child care facility that uses the donation to provide child
3 care, a child care program that is not a child care facility but provides
4 child care services similar to those provided by a child care center, as
5 defined in sections 26-6-903 and 26.5-5-303, or any other program that
6 received donations for which a credit was allowed to the donor pursuant
7 to this section for any income tax year that ended before January 1, 2004,
8 in the state;

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

12 (c) Pooling money OR IN-KIND CONTRIBUTIONS of several
13 businesses ~~and donating the money~~ TO MAKE DONATIONS for the
14 establishment of a child care facility in the state;

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

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

20 (6.8) (a) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH
21 REQUIRES EACH BILL THAT EXTENDS A TAX EXPENDITURE TO INCLUDE A
22 TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY
23 LEGISLATIVE DECLARATION IF ONE WAS NOT PREVIOUSLY INCLUDED IN THE
24 TAX EXPENDITURE, THE GENERAL ASSEMBLY FINDS AND DECLARES THAT
25 THE GENERAL PURPOSE OF THIS TAX EXPENDITURE IS INTENDED TO INDUCE
26 CERTAIN DESIGNATED BEHAVIOR BY TAXPAYERS. SPECIFICALLY, THIS TAX
27 EXPENDITURE IS INTENDED TO ENCOURAGE TAXPAYERS TO MAKE

1 DONATIONS THAT PROMOTE CHILD CARE.

2 (b) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL
3 MEASURE THE EFFECTIVENESS OF THE TAX CREDIT IN ACHIEVING THE
4 PURPOSES SPECIFIED IN SUBSECTION (6.8)(a) OF THIS SECTION BASED ON
5 THE NUMBER AND VALUE OF CREDITS THAT ARE CLAIMED. TO ALLOW THE
6 GENERAL ASSEMBLY AND THE STATE AUDITOR TO MEASURE THE
7 EFFECTIVENESS OF THE CREDIT, THE DEPARTMENT OF REVENUE, WHEN
8 ADMINISTERING THE CREDIT, SHALL COLLECT, AT A MINIMUM, THE
9 FOLLOWING INFORMATION ABOUT THE TAXPAYER'S CONTRIBUTION TO
10 PROMOTE CHILD CARE:

11 (I) THE CONTRIBUTION AMOUNT;

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

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

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

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

20 (c) THE DEPARTMENT OF REVENUE SHALL CONSULT WITH THE
21 EARLY CHILDHOOD LEADERSHIP COMMISSION CREATED IN SECTION
22 26.5-1-302 TO DEVELOP ADDITIONAL RECOMMENDATIONS FOR MEASURING
23 THE EFFECTIVENESS OF THE TAX CREDIT ALLOWED PURSUANT TO THIS
24 SECTION. ON OR BEFORE JULY 31, 2025, THE DEPARTMENT OF REVENUE
25 SHALL DELIVER TO THE OFFICE OF THE STATE AUDITOR THE ADDITIONAL
26 RECOMMENDATIONS DEVELOPED PURSUANT TO THIS SUBSECTION (6.8)(d).

27 (d) IN THE INCOME TAX YEAR COMMENCING JANUARY 1, 2026, THE

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

8 (7) This section is repealed, effective ~~January 1, 2032~~ JANUARY
9 1, 2035.

10 **SECTION 2. Act subject to petition - effective date.** This act
11 takes effect at 12:01 a.m. on the day following the expiration of the
12 ninety-day period after final adjournment of the general assembly; except
13 that, if a referendum petition is filed pursuant to section 1 (3) of article V
14 of the state constitution against this act or an item, section, or part of this
15 act within such period, then the act, item, section, or part will not take
16 effect unless approved by the people at the general election to be held in
17 November 2024 and, in such case, will take effect on the date of the
18 official declaration of the vote thereon by the governor.