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HOUSE BILL 24-1312

BY REPRESENTATIVE(S) Sirota and Garcia, Amabile, Bacon, Bird, Boesenecker, Brown, Daugherty, deGruy Kennedy, Duran, English, Epps, Froelich, Hamrick, Herod, Jodeh, Joseph, Kipp, Lieder, Lindsay, Lindstedt, Lukens, Mabrey, Marvin, Mauro, McLachlan, Ortiz, Ricks, Snyder, Story, Titone, Valdez, Velasco, Vigil, Weissman, Willford, Woodrow, Young, McCluskie;

also SENATOR(S) Rodriguez and Bridges, Buckner, Coleman, Cutter, Danielson, Exum, Fields, Gonzales, Hinrichsen, Jaquez Lewis, Kolker, Marchman, Michaelson Jenet, Mullica, Priola, Roberts, Sullivan, Winter F..

CONCERNING A STATE INCOME TAX CREDIT FOR INDIVIDUALS IN THE CARE WORKFORCE, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **add** 39-22-566 as follows:

39-22-566. Qualified care worker tax credit - tax preference performance statement - legislative declaration - definitions - repeal.

(1) (a) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH REQUIRES

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY DECLARES THAT THE GENERAL LEGISLATIVE PURPOSE OF THE TAX CREDIT ALLOWED BY THIS SECTION IS TO PROVIDE TAX RELIEF FOR CERTAIN BUSINESSES OR INDIVIDUALS AND THAT THE SPECIFIC LEGISLATIVE PURPOSE OF THE TAX CREDIT ALLOWED BY THIS SECTION IS TO PROVIDE TAX RELIEF TO INDIVIDUALS WORKING IN THE CARE WORKFORCE PROVIDING DIRECT CARE.

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

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

(a) "CHILD CARE WORKER" MEANS A RESIDENT INDIVIDUAL WHO IS REGISTERED WITH THE DEPARTMENT OF EARLY CHILDHOOD'S COLORADO SHINES PROFESSIONAL DEVELOPMENT INFORMATION SYSTEM, OR A SUCCESSOR SYSTEM, AND WHO PROVIDES CARE FOR AT LEAST SEVEN HUNDRED TWENTY HOURS DURING THE INCOME TAX YEAR AS:

(I) A LICENSEE AND OPERATOR OF AN ELIGIBLE PROGRAM IN THIS STATE;

(II) AN EMPLOYEE OF AN ELIGIBLE PROGRAM IN THIS STATE; OR

(III) AN INFORMAL FAMILY FRIEND OR NEIGHBOR CHILD CARE WORKER IN THIS STATE.

(b) "CONSUMER-DIRECTED CARE EMPLOYER" MEANS A PERSON RECEIVING CARE PURSUANT TO PART 11 AND PART 19 OF ARTICLE 6 OF TITLE 25.5 WHO EMPLOYS A DIRECT CARE WORKER.

(c) "CERTIFIED HOME CARE AGENCY" HAS THE SAME MEANING AS SET FORTH IN SECTION 25-27.5-102 (1).

(d) "CERTIFIED NURSE AIDE" MEANS A PERSON CERTIFIED BY THE STATE BOARD OF NURSING PURSUANT TO PART 2 OF ARTICLE 255 OF TITLE 12.

(e) "DIRECT CARE WORKER" MEANS A RESIDENT INDIVIDUAL WITH THE APPROPRIATE KNOWLEDGE, SKILLS, AND TRAINING WHO PROVIDES HANDS-ON CARE AND SERVICES, INCLUDING PERSONAL CARE, TO PARTICIPANTS RECEIVING LONG-TERM CARE IN THIS STATE. "DIRECT CARE WORKER" DOES NOT INCLUDE A CERTIFIED NURSE AIDE.

(f) "ELIGIBLE PROGRAM" MEANS A LICENSED EARLY CHILDHOOD EDUCATION PROGRAM OR A LICENSED FAMILY CHILD CARE HOME. "ELIGIBLE PROGRAM" INCLUDES ONLY THOSE LICENSED EARLY CHILDHOOD EDUCATION PROGRAMS AND LICENSED FAMILY CHILD CARE HOMES WITH AT LEAST A LEVEL ONE QUALITY RATING PURSUANT TO THE COLORADO SHINES QUALITY RATING AND IMPROVEMENT SYSTEM CREATED IN SECTION 26.5-5-101 FOR THE ENTIRE INCOME TAX YEAR, OR THAT PORTION OF THE INCOME TAX YEAR FOR WHICH THE LICENSED EARLY CHILDHOOD EDUCATION PROGRAM OR LICENSED FAMILY CHILD CARE HOME WAS LICENSED.

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

(h) "EMPLOYER" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-22-604 (2)(b).

(i) "HOME- AND COMMUNITY-BASED SERVICES" MEANS ANY SERVICES PROVIDED IN THIS STATE PURSUANT TO PARTS 3 THROUGH 13 OR PART 19 OF ARTICLE 6 OF TITLE 25.5 OR SECTION 25.5-5-305.

(j) "INFORMAL FAMILY FRIEND OR NEIGHBOR CHILD CARE WORKER" MEANS AN INDIVIDUAL DESCRIBED IN SECTION 26.5-5-304 (1)(f) WHO PROVIDES CARE FOR CHILDREN OTHER THAN THEIR OWN WHO ARE FIVE YEARS OF AGE OR YOUNGER.

(k) "LICENSED EARLY CHILDHOOD EDUCATION PROGRAM" MEANS AN EARLY CHILDHOOD EDUCATION PROGRAM, AS DEFINED IN SECTION 26.5-2-202 (3), THAT HELD A VALID LICENSE ISSUED PURSUANT TO PART 3 OF ARTICLE 5 OF TITLE 26.5 FOR AT LEAST SIX MONTHS DURING THE INCOME TAX YEAR.

(l) "LICENSED FAMILY CHILD CARE HOME" MEANS A FAMILY CHILD CARE HOME, AS DEFINED IN SECTION 26.5-5-303 (7), THAT HELD A VALID LICENSE ISSUED PURSUANT TO PART 3 OF ARTICLE 5 OF TITLE 26.5 FOR AT

LEAST SIX MONTHS DURING THE INCOME TAX YEAR.

(m) "LONG-TERM CARE" MEANS:

(I) HOME- AND COMMUNITY-BASED SERVICES;

(II) CARE PROVIDED AT A NURSING FACILITY; AND

(III) CARE PROVIDED BY A CERTIFIED HOME CARE AGENCY.

(n) "LONG-TERM CARE EMPLOYER" MEANS AN EMPLOYER WHO EMPLOYS ONE OR MORE DIRECT CARE WORKERS TO PROVIDE LONG-TERM CARE IN THIS STATE. "LONG-TERM CARE EMPLOYER" INCLUDES A CONSUMER-DIRECTED CARE EMPLOYER.

(o) "NURSING FACILITY" HAS THE SAME MEANING AS SET FORTH IN SECTION 25.5-4-103 (14).

(p) "QUALIFIED DIRECT CARE WORKER" MEANS A DIRECT CARE WORKER WHO IS AN EMPLOYEE OF ONE OR MORE LONG-TERM CARE EMPLOYERS FOR AT LEAST SEVEN HUNDRED TWENTY HOURS IN TOTAL DURING THE TAX YEAR.

(3) (a) SUBJECT TO THE REQUIREMENTS SET FORTH IN SUBSECTION (3)(b) OF THIS SECTION, FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2025, BUT BEFORE JANUARY 1, 2029, EACH CHILD CARE WORKER AND QUALIFIED DIRECT CARE WORKER IS ALLOWED A CREDIT AGAINST THE INCOME TAXES IMPOSED BY THIS ARTICLE 22 IN THE AMOUNT OF ONE THOUSAND TWO HUNDRED DOLLARS. IN THE CASE OF A CHILD CARE WORKER OR QUALIFIED DIRECT CARE WORKER WHO FILES A JOINT RETURN WITH ANOTHER RESIDENT INDIVIDUAL WHO IS ALSO A CHILD CARE WORKER OR A QUALIFIED DIRECT CARE WORKER, THE CREDIT ALLOWED BY THIS SUBSECTION (3)(a) IS TWO THOUSAND FOUR HUNDRED DOLLARS.

(b) (I) THE CREDIT ALLOWED BY THIS SECTION IS NOT ALLOWED TO A RESIDENT INDIVIDUAL WHOSE ADJUSTED GROSS INCOME EXCEEDS:

(A) IN THE CASE OF A RESIDENT INDIVIDUAL WHO FILES A SINGLE RETURN, SEVENTY-FIVE THOUSAND DOLLARS; AND

(B) IN THE CASE OF TWO RESIDENT INDIVIDUALS WHO FILE A JOINT RETURN, ONE HUNDRED THOUSAND DOLLARS.

(II) THE LIMIT SET FORTH IN SUBSECTION (3)(b)(I)(B) OF THIS SECTION APPLIES TO A JOINT RETURN REGARDLESS OF WHETHER ONE OR BOTH RESIDENT INDIVIDUALS ARE CHILD CARE WORKERS OR QUALIFIED DIRECT CARE WORKERS.

(III) A RESIDENT INDIVIDUAL WHO IS BOTH A CHILD CARE WORKER AND A QUALIFIED DIRECT CARE WORKER IS NOT ALLOWED AN ADDITIONAL CREDIT PURSUANT TO THIS SECTION ON ACCOUNT OF SUCH DUAL QUALIFICATION.

(IV) IN THE CASE OF A PART-YEAR RESIDENT, THE CREDIT ALLOWED BY THIS SECTION IS APPORTIONED IN THE RATIO DETERMINED IN SECTION 39-22-110 (1).

(4) (a) ON OR BEFORE SEPTEMBER 30, 2025, AND EACH SEPTEMBER 30 THEREAFTER, THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING SHALL PROVIDE THE DEPARTMENT OF REVENUE AN ELECTRONIC REPORT OF THE NAME AND FEDERAL EMPLOYER IDENTIFICATION NUMBER OF EVERY LONG-TERM CARE EMPLOYER PROVIDING SERVICES IN THIS STATE DURING THE CALENDAR YEAR.

(b) ON OR BEFORE JANUARY 31, 2026, AND EACH JANUARY 31 THEREAFTER, THE DEPARTMENT OF EARLY CHILDHOOD SHALL PROVIDE THE DEPARTMENT OF REVENUE WITH AN ELECTRONIC REPORT OF CHILD CARE WORKERS ELIGIBLE FOR THE CREDIT ALLOWED BY THIS SECTION FOR THE PRECEDING CALENDAR YEAR.

(5) (a) ON OR BEFORE JANUARY 31, 2026, AND EACH JANUARY 31 THEREAFTER, EVERY LONG-TERM CARE EMPLOYER THAT EMPLOYED ONE OR MORE DIRECT CARE WORKERS SHALL MAKE AN INFORMATION RETURN TO THE EXECUTIVE DIRECTOR FOR THE PRECEDING CALENDAR YEAR. THE RETURN MUST INCLUDE EACH DIRECT CARE WORKER'S SOCIAL SECURITY NUMBER OR INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER, THE TOTAL HOURS THE DIRECT CARE WORKER WORKED AS SUCH DURING THE CALENDAR YEAR, AND ANY OTHER INFORMATION THE EXECUTIVE DIRECTOR MAY REQUIRE. THE LONG-TERM CARE EMPLOYER SHALL REPORT ONLY THOSE EMPLOYEES WHO ARE DIRECT CARE WORKERS AS DEFINED IN THIS SECTION.

(b) THE RETURN REQUIRED BY THIS SUBSECTION (5) MUST BE FILED ELECTRONICALLY ON OR BEFORE JANUARY 31 IN ADDITION TO THE RETURN REQUIRED BY SECTION 39-22-604 (6). THE EXECUTIVE DIRECTOR SHALL IMPOSE A PENALTY OF FIVE HUNDRED DOLLARS IF THE LONG-TERM CARE EMPLOYER FAILS TO FILE THE RETURN REQUIRED BY THIS SUBSECTION (5) ON OR BEFORE JANUARY 31, UNLESS SHOWN TO HAVE BEEN DUE TO REASONABLE CAUSE, OR WILLFULLY FILES A FALSE OR FRAUDULENT RETURN, WHICH PENALTY IS IN ADDITION TO ANY CRIMINAL PENALTY OTHERWISE PROVIDED FOR FAILURE TO FILE A RETURN OR FOR FILING A FALSE OR FRAUDULENT RETURN. THE EXECUTIVE DIRECTOR SHALL ASSESS AND COLLECT THE PENALTY IMPOSED BY THIS SUBSECTION (5)(b) IN THE SAME MANNER AS AN UNDERPAYMENT OF THE TAX IMPOSED BY THIS ARTICLE 22.

(c) IN THE CASE OF A CONSUMER-DIRECTED CARE EMPLOYER, THE DEPARTMENT OF HEALTHCARE POLICY AND FINANCING, OR THE DEPARTMENT'S FISCAL AGENT, SHALL FILE THE RETURN REQUIRED BY THIS SUBSECTION (5).

(6) IF THE CREDIT ALLOWED BY THIS SECTION EXCEEDS THE INCOME TAX IMPOSED BY THIS ARTICLE 22, THE EXCESS CREDIT MAY NOT BE CARRIED FORWARD AND IS REFUNDED TO THE TAXPAYER.

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

SECTION 2. In Colorado Revised Statutes, 39-21-119.5, **amend** (4)(k) and (4)(l); and **add** (4)(n) as follows:

39-21-119.5. Mandatory electronic filing of returns - mandatory electronic payment - penalty - waiver - definitions. (4) Except as provided in subsection (6) of this section, on and after August 2, 2019, electronic filing of returns and the payment of any tax or fee by electronic funds transfer is required for the following:

(k) Any clean fleet per ride fee and air pollution mitigation per ride fee return required to be filed and payment required pursuant to section 40-10.1-607.5; ~~and~~

(l) Any quarterly report for the advance payment of an income tax credit required to be filed pursuant to section 39-22-629 (2)(b); AND

(n) THE INFORMATION RETURN FROM LONG-TERM CARE EMPLOYERS REQUIRED TO BE FILED PURSUANT TO SECTION 39-22-566 (5).

SECTION 3. Appropriation. (1) For the 2024-25 state fiscal year, \$47,193 is appropriated to the department of early childhood for use by the division of licensing and administration. This appropriation is from the general fund. To implement this act, the division may use this appropriation as follows:

(a) \$10,943 for personal services, which amount is based on an assumption that the division will require an additional 0.2 FTE; and

(b) \$36,250 for operating expenses.

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in

November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Steve Fenberg
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO