

SB19-188

HOUSE FLOOR AMENDMENT

Second Reading BY REPRESENTATIVES Landgraf, Beckman,
and Carver

1 Amend reengrossed bill, page 13, after line 26 insert:

2 "SECTION 2. In Colorado Revised Statutes, add 39-22-104.8
3 as follows:

4 **39-22-104.8. Pretax payments - leave savings account -**
5 **definitions.** (1) AS USED IN THIS SECTION:

6 (a) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

7 (b) "ELIGIBLE LEAVE" MEANS LEAVE THAT AN INDIVIDUAL
8 TAKES FROM WORK FOR ONE OR MORE OF THE FOLLOWING REASONS:

9 (I) THE BIRTH OF A CHILD OF THE INDIVIDUAL AND IN ORDER TO
10 CARE FOR THE CHILD;

11 (II) THE PLACEMENT OF A CHILD WITH THE INDIVIDUAL FOR
12 ADOPTION OR FOSTER CARE;

13 (III) TO CARE FOR A SPOUSE, CHILD, OR PARENT OF THE
14 INDIVIDUAL IF THE SPOUSE, CHILD, OR PARENT HAS A SERIOUS HEALTH
15 CONDITION;

16 (IV) A SERIOUS HEALTH CONDITION THAT MAKES THE
17 INDIVIDUAL UNABLE TO PERFORM THE FUNCTIONS OF THE POSITION OF
18 THE INDIVIDUAL; OR

19 (V) ANY QUALIFYING EXIGENCY, AS DETERMINED BY THE
20 UNITED STATES SECRETARY OF LABOR, ARISING OUT OF THE FACT THAT
21 A SPOUSE, CHILD, OR PARENT OF THE INDIVIDUAL IS ON COVERED
22 ACTIVE DUTY, OR HAS BEEN NOTIFIED OF AN IMPENDING CALL OR ORDER
23 TO COVERED ACTIVE DUTY, IN THE UNITED STATES ARMED FORCES
24 THAT WOULD ENTITLE THE INDIVIDUAL FOR LEAVE UNDER SECTION 29
25 U.S.C. SEC. 2612 (a)(1)(E).

26 (c) "FINANCIAL INSTITUTION" MEANS ANY STATE BANK, STATE
27 TRUST COMPANY, SAVINGS AND LOAN ASSOCIATION, FEDERALLY
28 CHARTERED CREDIT UNION DOING BUSINESS IN THE STATE, CREDIT
29 UNION CHARTERED BY THE STATE, NATIONAL BANK, BROKER-DEALER,
30 MUTUAL FUND, INSURANCE COMPANY, OR OTHER SIMILAR FINANCIAL
31 ENTITY.

32 (d) "LEAVE SAVINGS ACCOUNT" OR "ACCOUNT" MEANS AN
33 ACCOUNT WITH A FINANCIAL INSTITUTION DESIGNATED AS SUCH IN
34 ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION.

35 (2) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
36 JANUARY 1, 2020, AMOUNTS WITHHELD FROM AN INDIVIDUAL'S WAGES
37 THAT ARE DEPOSITED IN A LEAVE SAVINGS ACCOUNT, UP TO AN ANNUAL
38 MAXIMUM OF FIVE THOUSAND DOLLARS, ARE EXCLUDED FROM THE
39 INDIVIDUAL'S FEDERAL TAXABLE INCOME FOR PURPOSES OF THE STATE

1 INCOME TAX IMPOSED BY SECTION 39-22-104.

2 (b) AN EMPLOYER MAY MAKE A CONTRIBUTION TO AN
3 EMPLOYEE'S LEAVE SAVINGS ACCOUNT IN AN AMOUNT UP TO A
4 MATCHING CONTRIBUTION FOR ANY CONTRIBUTION MADE BY THE
5 EMPLOYEE. EMPLOYER CONTRIBUTIONS TO AN EMPLOYEE'S LEAVE
6 SAVINGS ACCOUNT CONSTITUTE A DEDUCTION FROM THE EMPLOYER'S
7 FEDERAL TAXABLE INCOME, PURSUANT TO SECTIONS 39-22-104 (4)(z).

8 (3) BEGINNING JANUARY 1, 2020, AN INDIVIDUAL MAY OPEN AN
9 ACCOUNT WITH A FINANCIAL INSTITUTION TO BE USED BY THE
10 INDIVIDUAL SOLELY AS A LEAVE SAVINGS ACCOUNT. FOR PURPOSES OF
11 THE INCOME TAX BENEFIT CONFERRED UNDER THIS SECTION, MONEY
12 MAY REMAIN IN AN ACCOUNT FOR AN UNLIMITED DURATION WITHOUT
13 BEING SUBJECT TO RECAPTURE OR PENALTY AND MAY BE:

14 (a) WITHDRAWN BY THE INDIVIDUAL AND USED TO PAY FOR ANY
15 EXPENSE INCURRED BY THE INDIVIDUAL WHILE HE OR SHE IS ON
16 ELIGIBLE LEAVE; OR

17 (b) USED TO PAY A SERVICE FEE THAT IS DEDUCTED BY THE
18 FINANCIAL INSTITUTION.

19 (4) (a) EXCEPT AS SET FORTH IN SUBSECTION (4)(b) OF THIS
20 SECTION, MONEY WITHDRAWN FROM A LEAVE SAVINGS ACCOUNT THAT
21 IS USED FOR ANY PURPOSE OTHER THAN THOSE SPECIFIED IN
22 SUBSECTION (3) OF THIS SECTION IS SUBJECT TO RECAPTURE AS PART OF
23 THE INDIVIDUAL'S INCOME IN THE TAXABLE YEAR IN WHICH IT IS
24 WITHDRAWN AND TO A PENALTY EQUAL TO TEN PERCENT OF THE
25 AMOUNT RECAPTURED. THE PENALTY APPLIES WHETHER THE MONEY
26 WAS EXCLUDED UNDER THIS SECTION OR SUBTRACTED FROM FEDERAL
27 TAXABLE INCOME UNDER SECTION 39-22-104 (4)(z) OR 39-22-304
28 (3)(p).

29 (b) IF THE INDIVIDUAL WHO CREATED THE LEAVE SAVINGS
30 ACCOUNT DIES, THEN ALL OF THE MONEY IN THE ACCOUNT THAT WAS
31 SUBTRACTED FROM TAXABLE INCOME IS SUBJECT TO RECAPTURE IN THE
32 TAXABLE YEAR OF THE DEATH, BUT NO PENALTY IS DUE TO THE
33 DEPARTMENT.

34 (5) THE DEPARTMENT SHALL ESTABLISH A FORM FOR AN
35 INDIVIDUAL TO ANNUALLY REPORT INFORMATION ABOUT A LEAVE
36 SAVINGS ACCOUNT INCLUDING, BUT NOT LIMITED TO, HOW THE MONEY
37 FROM THE FUND IS USED, AND IDENTIFY ANY SUPPORTING
38 DOCUMENTATION THAT IS REQUIRED TO BE MAINTAINED. TO BE
39 ELIGIBLE FOR THE TAX BENEFIT UNDER THIS SECTION, AN INDIVIDUAL
40 MUST ANNUALLY FILE WITH HIS OR HER STATE INCOME TAX RETURN THE
41 COMPLETED FORM AND ANY OTHER SUPPORTING DOCUMENTATION THE
42 DEPARTMENT REQUIRES. THE INDIVIDUAL IS RESPONSIBLE FOR
43 MAINTAINING DOCUMENTATION FOR THE ACCOUNT AND FOR ANY USE

1 OF MONEY FROM THE ACCOUNT.
2 (6) (a) A FINANCIAL INSTITUTION IS NOT REQUIRED TO:
3 (I) DESIGNATE AN ACCOUNT AS A LEAVE SAVINGS ACCOUNT IN
4 THE FINANCIAL INSTITUTION'S ACCOUNT CONTRACTS OR SYSTEMS OR IN
5 ANY OTHER WAY;
6 (II) TRACK THE USE OF MONEY WITHDRAWN FROM A LEAVE
7 SAVINGS ACCOUNT; OR
8 (III) REPORT ANY INFORMATION TO THE DEPARTMENT OR ANY
9 OTHER GOVERNMENTAL AGENCY THAT IS NOT OTHERWISE REQUIRED BY
10 LAW.
11 (b) A FINANCIAL INSTITUTION IS NOT RESPONSIBLE OR LIABLE
12 FOR:
13 (I) DETERMINING OR ENSURING THAT MONEY IN A LEAVE
14 SAVINGS ACCOUNT IS USED FOR AN ELIGIBLE EXPENSE; OR
15 (II) REPORTING OR REMITTING TAXES OR PENALTIES RELATED
16 TO THE USE OF MONEY IN A LEAVE SAVINGS ACCOUNT.
17 (c) IN IMPLEMENTING THIS SECTION, THE DEPARTMENT SHALL
18 NOT ESTABLISH ANY ADMINISTRATIVE, REPORTING, OR OTHER
19 REQUIREMENTS ON FINANCIAL INSTITUTIONS THAT ARE OUTSIDE THE
20 SCOPE OF NORMAL ACCOUNT PROCEDURES.
21 (7) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO
22 PROHIBIT THE DEPARTMENT FROM REQUESTING THAT A FINANCIAL
23 INSTITUTION PROVIDE TO THE DEPARTMENT DOCUMENTS CREATED IN
24 THE NORMAL COURSE OF BUSINESS TO VERIFY INFORMATION PROVIDED
25 TO THE DEPARTMENT BY A TAXPAYER WHO CREATED A LEAVE SAVINGS
26 ACCOUNT.
27 **SECTION 3.** In Colorado Revised Statutes, 39-22-104, **add**
28 (4)(z) as follows:
29 **39-22-104. Income tax imposed on individuals, estates, and**
30 **trusts - single rate - legislative declaration - definitions - repeal.**
31 (4) There shall be subtracted from federal taxable income:
32 (z) (I) FOR INCOME TAX YEARS BEGINNING ON OR AFTER
33 JANUARY 1, 2020:
34 (A) FOR AN EMPLOYER, AN AMOUNT EQUAL TO THE AMOUNT
35 THE EMPLOYER CONTRIBUTES TO AN EMPLOYEE'S LEAVE SAVINGS
36 ACCOUNT;
37 (B) FOR AN EMPLOYEE, AN AMOUNT EQUAL TO THE AMOUNT
38 WITHHELD FROM AND INDIVIDUAL'S WAGES THAT ARE DEPOSITED IN THE
39 EMPLOYEE'S LEAVE SAVINGS ACCOUNT; AND
40 (C) AN AMOUNT EQUAL TO ANY INTEREST AND OTHER INCOME
41 EARNED ON THE INVESTMENT OF THE MONEY DURING THE TAXABLE
42 YEAR IN A TAXPAYER'S LEAVE SAVINGS ACCOUNT.
43 (II) AS USED IN THIS SUBSECTION (4)(z):

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

3 (B) "LEAVE SAVINGS ACCOUNT" HAS THE SAME MEANING AS
4 SET FORTH IN SECTION 39-22-104.8 (1)(d).

5 **SECTION 4.** In Colorado Revised Statutes, 39-22-304, **add**
6 (3)(p) as follows:

7 **39-22-304. Net income of corporation - legislative**
8 **declaration - definitions - repeal.** (3) There shall be subtracted from
9 federal taxable income:

10 (p) FOR INCOME TAX YEARS BEGINNING ON OR AFTER JANUARY
11 1, 2020, FOR AN EMPLOYER, AN AMOUNT EQUAL TO THE AMOUNT THE
12 EMPLOYER CONTRIBUTES TO AN EMPLOYEE'S LEAVE SAVINGS ACCOUNT
13 CREATED IN ACCORDANCE WITH SECTION 39-22-104.8. THIS
14 SUBTRACTION IS ALLOWABLE EVEN IF THE CONTRIBUTION IS OTHERWISE
15 EXCLUDED FROM FEDERAL TAXABLE INCOME. AS USED IN THIS
16 SUBSECTION (3)(p), "EMPLOYEE" HAS THE SAME MEANING AS SET
17 FORTH IN SECTION 39-22-604 (2)(a).

18 **SECTION 5.** In Colorado Revised Statutes, **add** 39-22-542 as
19 follows:

20 **39-22-542. Credit for employers - family leave - definition.**

21 (1) AS USED IN THIS SECTION, "EMPLOYEE" HAS THE SAME MEANING AS
22 SET FORTH IN SECTION 39-22-604 (2)(a).

23 (2) (a) EXCEPT AS SET FORTH IN SUBSECTION (3) OF THIS
24 SECTION, FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER
25 JANUARY 1, 2020, A TAXPAYER IS ALLOWED A CREDIT AGAINST THE TAX
26 IMPOSED BY THIS ARTICLE 22 THAT IS EQUAL TO A PERCENTAGE OF THE
27 AMOUNT THE TAXPAYER PAID TO AN EMPLOYEE FOR THE PERIOD THE
28 EMPLOYEE WAS ON LEAVE FROM WORK DURING THE TAXABLE YEAR FOR
29 ONE OF THE FOLLOWING REASONS:

30 (I) THE BIRTH OF A CHILD OF THE EMPLOYEE AND IN ORDER TO
31 CARE FOR THE CHILD;

32 (II) THE PLACEMENT OF A CHILD WITH THE EMPLOYEE FOR
33 ADOPTION OR FOSTER CARE;

34 (III) TO CARE FOR A SPOUSE, CHILD, OR PARENT OF THE
35 EMPLOYEE IF THE SPOUSE, CHILD, OR PARENT HAS A SERIOUS HEALTH
36 CONDITION; OR

37 (IV) A SERIOUS HEALTH CONDITION THAT MAKES THE
38 EMPLOYEE UNABLE TO PERFORM THE FUNCTIONS OF THE POSITION OF
39 THE EMPLOYEE.

40 (b) THE APPLICABLE PERCENTAGE FOR PURPOSES OF THE CREDIT
41 IN SUBSECTION (2)(a) OF THIS SECTION IS:

42 (I) FIFTY PERCENT FOR A TAXPAYER THAT EMPLOYS FEWER
43 THAN FIFTY EMPLOYEES DURING THE TAXABLE YEAR; OR

1 (II) TWENTY-FIVE PERCENT FOR A TAXPAYER THAT EMPLOYS
2 FIFTY OR MORE EMPLOYEES DURING THE TAXABLE YEAR.
3 (3) TO CLAIM THE CREDIT UNDER SUBSECTION (2) OF THIS
4 SECTION, A TAXPAYER MUST PAY THE EMPLOYEE FOR AT LEAST SIX
5 WEEKS, BUT IN NO CASE SHALL A TAXPAYER CLAIM THE CREDIT FOR
6 MORE THAN TWELVE WEEKS OF PAY. ANY PAYMENTS BY THE EMPLOYER
7 FOR ACCRUED PAID VACATION, SICK, OR PERSONAL LEAVE ARE NOT
8 ELIGIBLE FOR THE CREDIT.
9 (4) IF THE AMOUNT OF A CREDIT ALLOWED UNDER THIS SECTION
10 EXCEEDS A TAXPAYER'S ACTUAL TAX LIABILITY FOR AN INCOME TAX
11 YEAR, THE AMOUNT OF THE CREDIT NOT USED TO OFFSET INCOME TAX
12 LIABILITY FOR THE INCOME TAX YEAR IS NOT REFUNDED TO THE
13 TAXPAYER. THE TAXPAYER MAY CARRY FORWARD AND APPLY THE
14 UNUSED CREDIT AGAINST THE INCOME TAX DUE IN EACH OF THE FIVE
15 SUCCEEDING INCOME TAX YEARS, BUT THE TAXPAYER SHALL APPLY THE
16 CREDIT AGAINST THE INCOME TAX DUE FOR THE EARLIEST OF THE
17 INCOME TAX YEARS POSSIBLE. ANY AMOUNT OF THE TAX CREDIT THAT
18 IS NOT USED AFTER THIS PERIOD IS NOT REFUNDABLE."
19 Renumber succeeding section accordingly.

** ** ** ** **