

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

UNEDITED
UNREVISED
REDRAFT
1.29.18
Double underlining
denotes changes from
prior draft

DRAFT

LLS NO. 18-0753.02 Ed DeCecco x4216

HOUSE BILL

HOUSE SPONSORSHIP

Garnett,

SENATE SPONSORSHIP

(None),

BILL TOPIC: "Income Tax Credit Leave Of Absence Organ Donation"

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 MAKING AN ORGAN DONATION, AND, IN CONNECTION
104 THEREWITH, ENACTING THE "LIVING ORGAN DONOR SUPPORT
105 ACT".

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, 2018, an employer is allowed an income tax credit that is an amount equal to 35% of the employer's expenses

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

incurred:

- Paying an employee during his or her leave of absence period, which is paid leave given to an employee for the purpose of making an organ donation, but which does not exceed 10 working days or the hourly equivalent thereof; and
- For the cost of temporary replacement help, if any, during an employee's leave of absence period.

An employer shall not claim a tax credit related to a leave of absence period for an employee who the employer pays wages of \$80,000 or more during the income tax year. The tax credit is not refundable, but unused credits may be carried forward up to 5 years.

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

2 **SECTION 1. Short title.** The short title of this act is the "Living
3 Organ Donor Support Act".

4 **SECTION 2.** In Colorado Revised Statutes, **add** 39-22-539 as
5 follows:

6 **39-22-539. Credit - organ donor - leave of absence period -
7 legislative declaration - definitions.** (1) (a) THE GENERAL ASSEMBLY
8 HEREBY FINDS AND DECLARES THAT:

9 (I) NEARLY TWO THOUSAND FOUR HUNDRED COLORADANS ARE
10 CURRENTLY ON THE WAITING LIST FOR LIFESAVING ORGAN TRANSPLANTS,
11 AND NINETY-SIX PERCENT OF THOSE PEOPLE COULD RECEIVE AN ORGAN,
12 SUCH AS A KIDNEY OR LIVER, FROM A LIVING DONOR;

13 (II) LAST YEAR, TWO HUNDRED FIFTY-EIGHT COLORADANS DIED
14 OR BECAME TOO SICK TO REMAIN ON THE WAITING LIST, WHICH IS
15 THIRTY-EIGHT PERCENT MORE THAN ALL THE HOMICIDES IN THE STATE;

16 (III) THESE LIVES WOULD BE SAVED IF MORE PEOPLE BECAME
17 LIVING DONORS;

18 (IV) IF JUST ONE OUT OF ONE THOUSAND ONE HUNDRED ADULTS IN
19 THE STATE BECAME LIVING DONORS, THE WAITING LIST FOR KIDNEY AND

1 LIVER TRANSPLANTS IN THE STATE WOULD BE ERADICATED; AND

2 (V) THE ABILITY TO GET PAID TIME OFF WORK IS AN ENORMOUS
3 BARRIER FOR LIVING ORGAN DONORS, AND THE LOSS OF INCOME AND FEAR
4 OF LOSING THEIR JOB HAS DETERRED MANY WOULD-BE DONORS.

5 (b) NOW, THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT
6 THE INTENDED PURPOSE OF THE TAX CREDIT IN THIS SECTION IS TO
7 SUPPORT LIVING DONORS AND THE COMPANIES THAT EMPLOY THEM.

8 (2) AS USED IN THIS SECTION:

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

11 (b) "LEAVE OF ABSENCE PERIOD" MEANS THE PERIOD, NOT
12 EXCEEDING TEN WORKING DAYS OR THE HOURLY EQUIVALENT OF TEN
13 WORKING DAYS PER EMPLOYEE, DURING WHICH A TAXPAYER PROVIDES A
14 PAID LEAVE OF ABSENCE TO AN EMPLOYEE FOR THE PURPOSE OF ORGAN
15 DONATION. THE TERM DOES NOT INCLUDE A PERIOD DURING WHICH AN
16 EMPLOYEE UTILIZES ANY ANNUAL LEAVE OR SICK DAYS THAT THE
17 EMPLOYEE HAS BEEN GIVEN BY THE EMPLOYER.

18 (c) "TAXPAYER" MEANS AN EMPLOYER THAT DEDUCTS AND
19 WITHHOLDS AMOUNTS FROM THE WAGES PAID TO A QUALIFIED EMPLOYEE
20 PURSUANT TO SECTION 39-22-604 (3).

21 (d) "WAGES" HAS THE SAME MEANING AS SET FORTH IN SECTION
22 3401 (a) OF THE INTERNAL REVENUE CODE.

23 (3) EXCEPT AS SET FORTH IN SUBSECTION (4) OF THIS SECTION, FOR
24 ANY INCOME TAX YEAR COMMENCING ON OR AFTER JANUARY 1, 2018, A
25 TAXPAYER IS ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS
26 ARTICLE 22 THAT IS AN AMOUNT EQUAL TO THIRTY-FIVE PERCENT OF THE
27 TAXPAYER'S EXPENSES INCURRED:

1 (a) PAYING AN EMPLOYEE DURING HIS OR HER LEAVE OF ABSENCE
2 PERIOD; AND

3 (b) FOR THE COST OF TEMPORARY REPLACEMENT HELP, IF ANY,
4 DURING AN EMPLOYEE'S LEAVE OF ABSENCE PERIOD.

5 (4) A TAXPAYER SHALL NOT CLAIM A TAX CREDIT UNDER THIS
6 SECTION RELATED TO A LEAVE OF ABSENCE PERIOD FOR AN EMPLOYEE
7 WHO THE TAXPAYER PAYS WAGES OF EIGHTY THOUSAND DOLLARS OR
8 MORE DURING THE INCOME TAX YEAR.

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

19 **SECTION 3. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly (August
22 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
23 referendum petition is filed pursuant to section 1 (3) of article V of the
24 state constitution against this act or an item, section, or part of this act
25 within such period, then the act, item, section, or part will not take effect
26 unless approved by the people at the general election to be held in

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- 1 November 2018 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.