

SB188_L.137

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Finance.SB19-188 be amended as follows:

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

2 "SECTION 2. In Colorado Revised Statutes, add 39-22-104.8 as
3 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 TAKES
8 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 INDIVIDUAL
17 UNABLE TO PERFORM THE FUNCTIONS OF THE POSITION OF THE
18 INDIVIDUAL; OR

19 (V) ANY QUALIFYING EXIGENCY, AS DETERMINED BY THE UNITED
20 STATES SECRETARY OF LABOR, ARISING OUT OF THE FACT THAT A SPOUSE,
21 CHILD, OR PARENT OF THE INDIVIDUAL IS ON COVERED ACTIVE DUTY, OR
22 HAS BEEN NOTIFIED OF AN IMPENDING CALL OR ORDER TO COVERED
23 ACTIVE DUTY, IN THE UNITED STATES ARMED FORCES THAT WOULD
24 ENTITLE THE INDIVIDUAL FOR LEAVE UNDER SECTION 29 U.S.C. SEC. 2612
25 (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 UNION
29 CHARTERED BY THE STATE, NATIONAL BANK, BROKER-DEALER, MUTUAL
30 FUND, INSURANCE COMPANY, OR OTHER SIMILAR FINANCIAL ENTITY.

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

34 (2) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
35 JANUARY 1, 2020, AMOUNTS WITHHELD FROM AN INDIVIDUAL'S WAGES
36 THAT ARE DEPOSITED IN A LEAVE SAVINGS ACCOUNT, UP TO AN ANNUAL
37 MAXIMUM OF FIVE THOUSAND DOLLARS, ARE EXCLUDED FROM THE
38 INDIVIDUAL'S FEDERAL TAXABLE INCOME FOR PURPOSES OF THE STATE
39 INCOME TAX IMPOSED BY SECTION 39-22-104.

40 (b) AN EMPLOYER MAY MAKE A CONTRIBUTION TO AN EMPLOYEE'S

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

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

12 (a) WITHDRAWN BY THE INDIVIDUAL AND USED TO PAY FOR ANY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

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

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

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

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

42 (6) (a) A FINANCIAL INSTITUTION IS NOT REQUIRED TO:

43 (I) DESIGNATE AN ACCOUNT AS A LEAVE SAVINGS ACCOUNT IN THE

1 FINANCIAL INSTITUTION'S ACCOUNT CONTRACTS OR SYSTEMS OR IN ANY
2 OTHER WAY;

3 (II) TRACK THE USE OF MONEY WITHDRAWN FROM A LEAVE
4 SAVINGS ACCOUNT; OR

5 (III) REPORT ANY INFORMATION TO THE DEPARTMENT OR ANY
6 OTHER GOVERNMENTAL AGENCY THAT IS NOT OTHERWISE REQUIRED BY
7 LAW.

8 (b) A FINANCIAL INSTITUTION IS NOT RESPONSIBLE OR LIABLE FOR:

9 (I) DETERMINING OR ENSURING THAT MONEY IN A LEAVE SAVINGS
10 ACCOUNT IS USED FOR AN ELIGIBLE EXPENSE; OR

11 (II) REPORTING OR REMITTING TAXES OR PENALTIES RELATED TO
12 THE USE OF MONEY IN A LEAVE SAVINGS ACCOUNT.

13 (c) IN IMPLEMENTING THIS SECTION, THE DEPARTMENT SHALL NOT
14 ESTABLISH ANY ADMINISTRATIVE, REPORTING, OR OTHER REQUIREMENTS
15 ON FINANCIAL INSTITUTIONS THAT ARE OUTSIDE THE SCOPE OF NORMAL
16 ACCOUNT PROCEDURES.

17 (7) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT
18 THE DEPARTMENT FROM REQUESTING THAT A FINANCIAL INSTITUTION
19 PROVIDE TO THE DEPARTMENT DOCUMENTS CREATED IN THE NORMAL
20 COURSE OF BUSINESS TO VERIFY INFORMATION PROVIDED TO THE
21 DEPARTMENT BY A TAXPAYER WHO CREATED A LEAVE SAVINGS ACCOUNT.

22 **SECTION 3.** In Colorado Revised Statutes, 39-22-104, **add**
23 (4)(z) as follows:

24 **39-22-104. Income tax imposed on individuals, estates, and**
25 **trusts - single rate - legislative declaration - definitions - repeal.**

26 (4) There shall be subtracted from federal taxable income:

27 (z) (I) FOR INCOME TAX YEARS BEGINNING ON OR AFTER JANUARY
28 1, 2020:

29 (A) FOR AN EMPLOYER, AN AMOUNT EQUAL TO THE AMOUNT THE
30 EMPLOYER CONTRIBUTES TO AN EMPLOYEE'S LEAVE SAVINGS ACCOUNT;

31 (B) FOR AN EMPLOYEE, AN AMOUNT EQUAL TO THE AMOUNT
32 WITHHELD FROM AN INDIVIDUAL'S WAGES THAT ARE DEPOSITED IN THE
33 EMPLOYEE'S LEAVE SAVINGS ACCOUNT; AND

34 (C) AN AMOUNT EQUAL TO ANY INTEREST AND OTHER INCOME
35 EARNED ON THE INVESTMENT OF THE MONEY DURING THE TAXABLE YEAR
36 IN A TAXPAYER'S LEAVE SAVINGS ACCOUNT.

37 (II) AS USED IN THIS SUBSECTION (4)(z):

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

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

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

1 **39-22-304. Net income of corporation - legislative declaration**
2 **- definitions - repeal.** (3) There shall be subtracted from federal taxable
3 income:

4 (p) FOR INCOME TAX YEARS BEGINNING ON OR AFTER JANUARY 1,
5 2020, FOR AN EMPLOYER, AN AMOUNT EQUAL TO THE AMOUNT THE
6 EMPLOYER CONTRIBUTES TO AN EMPLOYEE'S LEAVE SAVINGS ACCOUNT
7 CREATED IN ACCORDANCE WITH SECTION 39-22-104.8. THIS SUBTRACTION
8 IS ALLOWABLE EVEN IF THE CONTRIBUTION IS OTHERWISE EXCLUDED FROM
9 FEDERAL TAXABLE INCOME. AS USED IN THIS SUBSECTION (3)(p),
10 "EMPLOYEE" HAS THE SAME MEANING AS SET FORTH IN SECTION 39-22-604
11 (2)(a).

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

14 **39-22-542. Credit for employers - family leave - definition.**

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

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

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

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

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

30 (IV) A SERIOUS HEALTH CONDITION THAT MAKES THE EMPLOYEE
31 UNABLE TO PERFORM THE FUNCTIONS OF THE POSITION OF THE EMPLOYEE.

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

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

36 (II) TWENTY-FIVE PERCENT FOR A TAXPAYER THAT EMPLOYS FIFTY
37 OR MORE EMPLOYEES DURING THE TAXABLE YEAR.

38 (3) TO CLAIM THE CREDIT UNDER SUBSECTION (2) OF THIS SECTION,
39 A TAXPAYER MUST PAY THE EMPLOYEE FOR AT LEAST SIX WEEKS, BUT IN
40 NO CASE SHALL A TAXPAYER CLAIM THE CREDIT FOR MORE THAN TWELVE
41 WEEKS OF PAY. ANY PAYMENTS BY THE EMPLOYER FOR ACCRUED PAID
42 VACATION, SICK, OR PERSONAL LEAVE ARE NOT ELIGIBLE FOR THE CREDIT.

43 (4) IF THE AMOUNT OF A CREDIT ALLOWED UNDER THIS SECTION

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

10 Renumber succeeding section accordingly.

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