

**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. 23-0469.02 Megan McCall x4215

HOUSE BILL 23-1189

HOUSE SPONSORSHIP

Bird,

SENATE SPONSORSHIP

Zenzinger,

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING AN INCOME TAX CREDIT FOR EMPLOYER ASSISTANCE TO**
102 **EMPLOYEES IN MAKING A HOME PURCHASE, AND, IN**
103 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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>.)

The bill creates a state income tax credit for employers who make a monetary contribution to an employee for use by the employee in purchasing a primary residence. The amount of the credit allowed is 5% of an employer's contribution to an employee, but the credit is capped at \$5,000 per employee per year and an employer cannot receive a credit of

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.

more than \$750,000 for all contributions made in a year to employees. The employee must use the money contributed for eligible expenses which include a down payment and closing costs, including fees for appraisals, mortgage origination, and inspections. An employee may authorize their employer to withhold a specified amount of the employee's earnings as an employee contribution into the savings account established by the employer that holds the employer contribution. If an employee ends their employment with the employer or if the employee intends to use the employee contribution in a manner that is not consistent with an eligible expense, the employee forfeits any unexpended amount of the employer contribution and the amount of the credit allowed to the employer for the employer contribution is subject to recapture. In such an occurrence, the employee is entitled to the employee contribution, plus any interest earned. The credit is not refundable but may be carried forward by the employer for a period of not more than 5 years. The amount contributed by the employer may be subtracted by the employee from the employee's federal taxable income for the purpose of determining their state taxable income; except that, if an employee forfeits the employer contribution, then the amount that the employee had subtracted from their federal taxable income is added back to their federal taxable income for the purpose of determining their state taxable income for the subsequent tax year. The executive director of the department of revenue may promulgate rules related to the implementation of the credit.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 39-22-549 as
3 follows:

4 **39-22-549. Tax credit for employer's contribution to employee**
5 **for eligible expenses in connection with a qualifying home purchase**
6 **- legislative declaration - definitions - repeal.** (1) (a) IN ACCORDANCE
7 WITH SECTION 39-21-304 (1), THE GENERAL ASSEMBLY FINDS AND
8 DECLARES THAT THE PURPOSE OF THIS TAX EXPENDITURE IS TO INDUCE
9 CERTAIN DESIGNATED BEHAVIOR BY TAXPAYERS TO ENCOURAGE HOME
10 OWNERSHIP BY PROVIDING TAX RELIEF TO EMPLOYERS WHO CONTRIBUTE
11 MONEY TO AN EMPLOYEE FOR A DOWN PAYMENT AND RELATED CLOSING
12 COSTS ON A HOME PURCHASE.

1 (b) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL
2 MEASURE THE EFFECTIVENESS OF THE CREDIT IN ACHIEVING THE PURPOSES
3 SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION BASED ON THE
4 INFORMATION REQUIRED TO BE MAINTAINED BY AND REPORTED TO THE
5 STATE AUDITOR UPON REQUEST BY THE DEPARTMENT PURSUANT TO
6 SUBSECTION (4) OF THIS SECTION.

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

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

10 (b) "ELIGIBLE EXPENSES" MEANS A DOWN PAYMENT AND ANY
11 CLOSING COSTS INCLUDED ON A REAL ESTATE SETTLEMENT STATEMENT,
12 INCLUDING BUT NOT LIMITED TO APPRAISAL FEES, MORTGAGE
13 ORIGINATION FEES, AND INSPECTION FEES.

14 (c) "EMPLOYEE CONTRIBUTION" MEANS THE AMOUNT AN
15 EMPLOYEE AUTHORIZES AN EMPLOYER TO WITHHOLD FROM THE
16 EMPLOYEE'S EARNINGS FOR DEPOSIT INTO THE SAVINGS ACCOUNT
17 ESTABLISHED PURSUANT TO SUBSECTION (3)(b)(I) OF THIS SECTION FOR
18 USE BY AN EMPLOYEE FOR ELIGIBLE EXPENSES IN CONNECTION WITH A
19 QUALIFYING HOME PURCHASE.

20 (d) "EMPLOYER" MEANS A PRIVATE, NONPUBLIC PERSON THAT
21 EMPLOYS ONE OR MORE EMPLOYEES WITHIN THE STATE.

22 (e) "EMPLOYER CONTRIBUTION" MEANS THE AMOUNT AN
23 EMPLOYER CONTRIBUTES TO A SAVINGS ACCOUNT ESTABLISHED PURSUANT
24 TO SUBSECTION (3)(b)(I) OF THIS SECTION FOR USE BY AN EMPLOYEE FOR
25 ELIGIBLE EXPENSES IN CONNECTION WITH A QUALIFYING HOME PURCHASE.

26 (f) "QUALIFYING HOME PURCHASE" MEANS A PROPERTY
27 PURCHASED BY AN EMPLOYEE AS A PRIMARY RESIDENCE.

1 (3) (a) FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER
2 JANUARY 1, 2024, BUT BEFORE JANUARY 1, 2027, IF AN EMPLOYER MAKES
3 A CONTRIBUTION OF MONEY TO AN EMPLOYEE DURING THE INCOME TAX
4 YEAR FOR USE BY THE EMPLOYEE FOR ELIGIBLE EXPENSES IN CONNECTION
5 WITH A QUALIFYING HOME PURCHASE, THEN THE EMPLOYER IS ALLOWED
6 A CREDIT AGAINST THE INCOME TAXES IMPOSED BY THIS ARTICLE 22 IN AN
7 AMOUNT EQUAL TO TWO AND ONE-HALF PERCENT OF THE AMOUNT OF THE
8 EMPLOYER CONTRIBUTION; EXCEPT THAT AN EMPLOYER CANNOT CLAIM A
9 CREDIT OF MORE THAN FIVE THOUSAND DOLLARS FOR ANY ONE EMPLOYEE
10 AND THE MAXIMUM TOTAL CREDIT THAT AN EMPLOYER MAY CLAIM IN A
11 TAXABLE YEAR IS THREE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS.

12 (b) (I) IN ORDER TO CLAIM THE TAX CREDIT ALLOWED BY THIS
13 SECTION, THE EMPLOYER SHALL ESTABLISH ONE OR MORE SAVINGS
14 ACCOUNTS FOR THE PURPOSE OF DEPOSITING THE MONEY FOR THE
15 EMPLOYER'S CONTRIBUTION TO AN EMPLOYEE.

16 (II) THE EMPLOYER SHALL ESTABLISH POLICIES CONCERNING THE
17 CONTRIBUTION, INCLUDING HOW THE EMPLOYER CONTRIBUTION IS TO BE
18 MADE AND PROCEDURES FOR AN EMPLOYEE TO FOLLOW TO WITHDRAW
19 MONEY FOR QUALIFYING EXPENSES AND FOR AN EMPLOYER TO FOLLOW TO
20 WITHHOLD AN EMPLOYEE'S EARNINGS AS AN EMPLOYEE CONTRIBUTION.

21 (III) AN EMPLOYEE MAY AUTHORIZE AN EMPLOYER TO WITHHOLD
22 A SPECIFIED PORTION OF THE EMPLOYEE'S EARNINGS AS AN EMPLOYEE
23 CONTRIBUTION, WHICH MONEY SHALL BE DEPOSITED IN A SAVINGS
24 ACCOUNT ESTABLISHED PURSUANT TO SUBSECTION (3)(b)(I) OF THIS
25 SECTION.

26 (c) IF AN EMPLOYEE ENDS THE EMPLOYEE'S EMPLOYMENT WITH
27 THE EMPLOYER OR IF THE EMPLOYEE CHOOSES TO USE MONEY IN A

1 SAVINGS ACCOUNT ESTABLISHED PURSUANT TO SUBSECTION (3)(b)(I) OF
2 THIS SECTION THAT IS AN EMPLOYEE CONTRIBUTION FOR SOMETHING
3 OTHER THAN AN ELIGIBLE EXPENSE, THE EMPLOYEE IS NOT ENTITLED TO
4 ANY UNEXPENDED AMOUNT OF THE EMPLOYER CONTRIBUTION, AND THE
5 EMPLOYER SHALL REMIT TO THE EMPLOYEE ANY AMOUNT IN THE SAVINGS
6 ACCOUNT WHICH IS ALL OR THE REMAINING AMOUNT OF THE EMPLOYEE
7 CONTRIBUTION, PLUS ANY INTEREST EARNED ON THE AMOUNT. THE
8 EMPLOYER SHALL PAY THE ENTIRE AMOUNT OF THE CREDIT RECEIVED FOR
9 THE EMPLOYER CONTRIBUTION. THE EMPLOYER SHALL REPORT THE
10 RECAPTURE REQUIRED BY THIS SUBSECTION (3)(c) BY INCREASING THEIR
11 INCOME TAX LIABILITY BY THE AMOUNT OF THE TOTAL CREDIT CLAIMED
12 FOR THE YEAR IN WHICH THE RECAPTURE OCCURS.

13 (4) (a) TO CLAIM THE CREDIT FOR AN INCOME TAX YEAR, AN
14 EMPLOYER MUST KEEP RECORDS RELATED TO THE CREDIT AS REQUIRED BY
15 THE DEPARTMENT. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY
16 PROMULGATE RULES TO IMPLEMENT THIS SECTION. NOTWITHSTANDING
17 ANY OTHER REQUIREMENTS OF THE DEPARTMENT, RECORDS MAINTAINED
18 BY AN EMPLOYER MUST SHOW:

19 (I) THE NUMBER OF EMPLOYEES TO WHOM THE EMPLOYER MADE
20 EMPLOYER CONTRIBUTIONS IN THE TAX YEAR;

21 (II) THE AMOUNT THE EMPLOYER CONTRIBUTED TO EACH
22 EMPLOYEE IN THE TAX YEAR AS EMPLOYER CONTRIBUTIONS;

23 (III) THE NUMBER OF EMPLOYEES WHO EXPENDED MONEY FROM A
24 SAVINGS ACCOUNT ESTABLISHED PURSUANT TO SUBSECTION (3)(b)(I) OF
25 THIS SECTION ON ELIGIBLE EXPENSES FOR A HOME PURCHASE IN THE TAX
26 YEAR; AND

27 (IV) THE TOTAL AMOUNT OF ANY EMPLOYER CONTRIBUTIONS

1 MADE BY THE EMPLOYER FOR USE BY THE EMPLOYEE FOR ELIGIBLE
2 EXPENSES IN CONNECTION WITH A QUALIFYING HOME PURCHASE THAT AN
3 EMPLOYEE HAS FORFEITED PURSUANT TO SUBSECTION (3)(c) OF THIS
4 SECTION IN THE TAX YEAR.

5 (b) UPON REQUEST BY THE STATE AUDITOR, THE DEPARTMENT
6 SHALL PROVIDE TO THE STATE AUDITOR THE INFORMATION CONTAINED IN
7 RECORDS REQUIRED BY SUBSECTION (4)(a) OF THIS SECTION.

8 (5) IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION
9 EXCEEDS THE AMOUNT OF INCOME TAXES OTHERWISE DUE ON THE
10 EMPLOYER'S INCOME IN THE INCOME TAX YEAR FOR WHICH THE CREDIT IS
11 CLAIMED, THE AMOUNT OF THE CREDIT NOT USED AS AN OFFSET AGAINST
12 INCOME TAXES IN THE CURRENT INCOME TAX YEAR MAY BE CARRIED
13 FORWARD AND USED AS A CREDIT AGAINST INCOME TAX LIABILITY IN
14 SUBSEQUENT YEARS FOR A PERIOD NOT TO EXCEED FIVE YEARS AND MUST
15 BE APPLIED FIRST TO THE EARLIEST INCOME TAX YEAR POSSIBLE. ANY
16 CREDIT REMAINING AFTER THE PERIOD MAY NOT BE REFUNDED OR
17 CREDITED TO THE EMPLOYER.

18 (6) NOTHING IN THIS SECTION IS INTENDED TO PRECLUDE AN
19 EMPLOYEE WHO RECEIVES A CONTRIBUTION FROM THEIR EMPLOYER IN
20 ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION FROM HAVING A
21 FIRST-TIME HOME BUYER SAVINGS ACCOUNT PURSUANT TO PART 47 OF
22 THIS ARTICLE 22.

23

24 **SECTION 2.** In Colorado Revised Statutes, 39-22-104, **add** (3)(s)
25 and (4)(bb) as follows:

26 **39-22-104. Income tax imposed on individuals, estates, and**
27 **trusts - single rate - report - legislative declaration - definitions -**

1 **repeal.** (3) There shall be added to the federal taxable income:

2 (s) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
3 1, 2025, AN AMOUNT EQUAL TO THE AMOUNT OF EMPLOYER CONTRIBUTION
4 THAT AN EMPLOYEE FORFEITS PURSUANT TO SECTION 39-22-549 (3)(c)
5 AND THAT THE TAXPAYER HAD PREVIOUSLY SUBTRACTED FROM THE
6 TAXPAYER'S FEDERAL TAXABLE INCOME PURSUANT TO SUBSECTION
7 (4)(bb) OF THIS SECTION. ■

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

9 (bb) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
10 1, 2024, BUT BEFORE JANUARY 1, 2027, AN AMOUNT EQUAL TO ANY
11 EMPLOYER CONTRIBUTION RECEIVED FROM AN EMPLOYER PURSUANT TO
12 SECTION 39-22-549. THIS SUBSECTION (4)(bb) IS REPEALED, EFFECTIVE
13 DECEMBER 31, 2034.

14 **SECTION 3. Appropriation.** (1) For the 2023-24 state fiscal
15 year, \$153,532 is appropriated to the department of revenue. This
16 appropriation is from the general fund. To implement this act, the
17 department may use this appropriation as follows:

18 (a) \$56,955 for use by the executive director's office for personal
19 services related to administration and support, which amount is based on
20 an assumption that the office will require an additional 0.9 FTE;

21 (b) \$7,885 for use by the executive director's office for operating
22 expenses related to administration and support;

23 (c) \$38,250 for use by the taxation business group for tax
24 administration IT system (GenTax) support;

25 (d) \$36,832 for use by the taxation business group for personal
26 services related to taxation services; and

27 (e) \$13,610 for the purchase of document management services.

1 (2) For the 2023-24 state fiscal year, \$13,610 is appropriated to
2 the department of personnel. This appropriation is from reappropriated
3 funds received from the department of revenue under subsection (1)(e) of
4 this section. To implement this act, the department of personnel may use
5 this appropriation to provide document management services for the
6 department of revenue.

7 **SECTION 4. Act subject to petition - effective date.** This act
8 takes effect at 12:01 a.m. on the day following the expiration of the
9 ninety-day period after final adjournment of the general assembly; except
10 that, if a referendum petition is filed pursuant to section 1 (3) of article V
11 of the state constitution against this act or an item, section, or part of this
12 act within such period, then the act, item, section, or part will not take
13 effect unless approved by the people at the general election to be held in
14 November 2024 and, in such case, will take effect on the date of the
15 official declaration of the vote thereon by the governor.