

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

BILL B

LLS NO. 16-0302.01 Esther van Mourik x4215

HOUSE BILL

HOUSE SPONSORSHIP

Windholz, Danielson, Primavera

SENATE SPONSORSHIP

Aguilar,

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF AN INCOME TAX CREDIT TO**
102 **INCENTIVIZE THE EMPLOYMENT OF PERSONS WITH DISABILITIES.**

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://www.leg.state.co.us/billsummaries>.)

Interim Committee to Study Vocational Rehabilitative Services for the Blind. The bill creates an income tax credit with 2 different incentives for employers in order to encourage the employment of persons with disabilities who are determined to be qualified employees, as defined

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

in the bill. First, it would provide a credit for a certain percentage of the qualified employee's gross wages for a limited period of time. Second, it would provide a 3-year credit for a portion of the annual costs the employer incurs for the maintenance, repair, or upgrade of assistive hardware or software technology that is specifically designed for use by the qualified employee in order for the qualified employee to perform his or her job.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) An estimated one million three hundred thousand people in the
5 United States are legally blind;

6 (b) Every year, seventy-five thousand people in the United States
7 will become blind or visually impaired;

8 (c) Studies show that over the next thirty years aging baby
9 boomers will double the current number of Americans who are blind or
10 visually impaired;

11 (d) A Gallup poll shows that blindness is the third most feared
12 physical condition in the country, surpassed only by fears of cancer and
13 AIDS;

14 (e) Most educational and employment opportunities are now and
15 will continue to be dependent on the blind individual's ability to access
16 and use a full range of computer and internet technology, but nonvisual
17 access to computer technology is an ever-increasing challenge;

18 (f) Among working-age adults who are blind, seventy percent
19 remain unemployed, despite the federal and state annual rehabilitation
20 expenditures of over one hundred fifty million dollars;

21 (g) The United States senate has, with bipartisan support,
22 introduced legislation to incentivize the transitioning of workers with

1 disabilities into integrated, meaningful employment and to phase out the
2 discriminatory practice of paying workers with disabilities as little as
3 pennies per hour;

4 (h) Despite the importance of nonvisual access to computer
5 technology and vocational rehabilitation services, many persons who are
6 blind still experience difficulties finding competitive employment;

7 (i) While many other persons with disabilities receive services
8 through medical and insurance systems in addition to vocational
9 rehabilitation services, often vocational rehabilitation services are the
10 only services that persons who are blind receive; and

11 (j) Given the important role vocational rehabilitation services and
12 employment opportunities provide to persons who are blind, it is
13 imperative that employers be open and willing to hire and retain these
14 individuals.

15 (2) The general assembly declares that the purpose of the tax
16 expenditure in this act is to incentivize the employment of people with
17 disabilities.

18 **SECTION 2.** In Colorado Revised Statutes, **amend** 39-22-530 as
19 follows:

20 **39-22-530. Credits for employers that hire persons with**
21 **disabilities - definitions - repeal.** (1) As used in this section, unless the
22 context otherwise requires:

23 (a) ~~"Designated county" means the counties of Adams, Arapahoe,~~
24 ~~El Paso, Jefferson, Logan, Montrose, and Morgan.~~

25 (b) (a) "Developmental disability" has the same meaning as
26 "intellectual and developmental disability" as set forth in section
27 25.5-10-202, C.R.S., and in the rules adopted by the department of health

1 care policy and financing pursuant to section 25.5-10-204 (2), C.R.S.

2 (b) "PERSON WHO IS BLIND" MEANS A PERSON WHO HAS NOT MORE
3 THAN 20/200 CENTRAL VISUAL ACUITY IN THE BETTER EYE WITH
4 CORRECTING LENSES OR AN EQUALLY DISABLING LOSS OF THE VISUAL
5 FIELD AS EVIDENCED BY A LIMITATION TO THE FIELD OF VISION IN THE
6 BETTER EYE TO SUCH A DEGREE THAT ITS WIDEST DIAMETER SUBTENDS AN
7 ANGLE OF NO GREATER THAN TWENTY DEGREES.

8 (c) "Person with a developmental disability" has the same
9 meaning as "person with an intellectual and developmental disability" as
10 set forth in section 25.5-10-202, C.R.S.

11 (d) "PERSON WITH VISUAL IMPAIRMENT" MEANS A PERSON WHO
12 HAS A VISUAL ACUITY OF 20/70 OR WORSE IN THE BETTER EYE WITH BEST
13 CORRECTION, OR A TOTAL FIELD LOSS OF ONE HUNDRED FORTY DEGREES,
14 AND WHOSE VISION CANNOT BE FULLY CORRECTED BY ORDINARY
15 PRESCRIPTION LENSES, MEDICAL TREATMENT, OR SURGERY.

16 ~~(d)~~ (e) "Qualified employee" means an employee first hired on or
17 after ~~January 1, 2009~~ JANUARY 1, 2016, BUT BEFORE JANUARY 1, 2019,
18 who:

19 (I) IS COMPENSATED IN ACCORDANCE WITH APPLICABLE MINIMUM
20 WAGE LAWS;

21 (II) (A) Is a person with a developmental disability;

22 (B) ~~Employed at a workplace located in a designated county; and~~
23 IS A PERSON WHO IS BLIND; OR

24 (C) ~~Compensated in accordance with applicable minimum wage~~
25 ~~laws~~ IS A PERSON WITH VISUAL IMPAIRMENT; AND

26 (III) AT THE TIME OF REFERRAL FOR EMPLOYMENT, WAS ELIGIBLE
27 FOR VOCATIONAL REHABILITATION SERVICES PROVIDED BY, AND WAS

1 REFERRED FOR EMPLOYMENT BY, THE DEPARTMENT OF LABOR AND
2 EMPLOYMENT IN ACCORDANCE WITH PART 1 OF ARTICLE 84 OF TITLE 8,
3 C.R.S., OR, IF THE REFERRAL FOR EMPLOYMENT OCCURRED BEFORE JULY
4 1, 2016, BY THE DEPARTMENT OR AGENCY IN STATE GOVERNMENT THAT,
5 AT THE TIME THE EMPLOYEE WAS REFERRED FOR EMPLOYMENT, HAD THE
6 AUTHORITY TO DETERMINE THE EMPLOYEE'S ELIGIBILITY FOR VOCATIONAL
7 REHABILITATION SERVICES AND REFER THE EMPLOYEE FOR EMPLOYMENT.

8 (e) (f) "Taxpayer" means an employer that deducts and withholds
9 amounts from the wages paid to a qualified employee pursuant to section
10 39-22-604 (3).

11 (2) (a) For the income tax years ~~beginning January 1, 2009,~~
12 ~~through January 1, 2011~~ COMMENCING ON OR AFTER JANUARY 1, 2016,
13 BUT BEFORE JANUARY 1, 2019, a credit against the tax imposed by this
14 article shall be allowed to a taxpayer who hires a qualified employee
15 during that period.

16 (b) The amount of the credit allowed by this ~~section~~ SUBSECTION
17 (2) is fifty percent of the amount of gross wages paid to a qualified
18 employee during the employee's first three months of continuous
19 employment and thirty percent of the amount of gross wages paid to a
20 qualified employee during the employee's subsequent nine months of
21 continuous employment. A TAXPAYER MAY CLAIM THE CREDIT ALLOWED
22 IN THIS SECTION FOR THE INCOME TAX YEAR IN WHICH THE GROSS WAGES
23 ON WHICH THE CREDIT IS BASED ARE PAID TO A QUALIFIED EMPLOYEE.

24 (3) (a) FOR THE INCOME TAX YEARS COMMENCING ON OR AFTER
25 JANUARY 1, 2016, BUT BEFORE JANUARY 1, 2019, A THREE-YEAR CREDIT
26 AGAINST THE TAX IMPOSED BY THIS ARTICLE IS ALLOWED TO A TAXPAYER
27 WHO HIRES AND RETAINS A QUALIFIED EMPLOYEE DURING THAT PERIOD

1 AND INCURS ANNUAL COSTS FOR THE MAINTENANCE, REPAIR, OR UPGRADE
2 OF ASSISTIVE HARDWARE OR SOFTWARE TECHNOLOGY THAT IS
3 SPECIFICALLY DESIGNED FOR USE BY THE QUALIFIED EMPLOYEE IN ORDER
4 FOR THE QUALIFIED EMPLOYEE TO PERFORM HIS OR HER JOB.

5 (b) THE AMOUNT OF THE CREDIT ALLOWED BY THIS SUBSECTION (3)
6 IS SEVENTY-FIVE PERCENT OF THE MAINTENANCE, REPAIR, OR UPGRADE
7 COSTS IN THE FIRST YEAR, FIFTY PERCENT OF THE MAINTENANCE, REPAIR,
8 OR UPGRADE COSTS IN THE SECOND YEAR, AND TWENTY-FIVE PERCENT OF
9 THE MAINTENANCE, REPAIR, OR UPGRADE COSTS IN THE THIRD YEAR.

10 ~~(3) (4) A taxpayer may claim the credit allowed by this section for~~
11 ~~the income tax year in which the wages on which the credit is based are~~
12 ~~paid to a qualified employee. If the amount of the credit exceeds a~~
13 ~~taxpayer's actual tax liability for an income tax year~~ CREDITS ALLOWED IN
14 THIS SECTION EXCEED THE AMOUNT OF INCOME TAXES OTHERWISE DUE ON
15 THE TAXPAYER'S INCOME IN THE INCOME TAX YEAR FOR WHICH THE
16 CREDITS ARE BEING CLAIMED, the amount of ~~the~~ EACH credit not used to
17 AS AN offset AGAINST income ~~tax liability for~~ TAXES IN the CURRENT
18 income tax year ~~shall not be allowed as a refund, but the taxpayer may~~
19 ~~claim the excess amount of the credit in a subsequent income tax year;~~
20 ~~except that the credit allowed by this section may not be claimed for any~~
21 ~~income tax year beginning after January 1, 2011. Any amount of the~~
22 ~~credit that is not used shall not be refunded to the taxpayer. A taxpayer~~
23 ~~may not claim the credit allowed by this section more than once for the~~
24 ~~same qualified employee~~ MAY BE CARRIED FORWARD AND USED AS A
25 CREDIT AGAINST SUBSEQUENT YEARS' INCOME TAX LIABILITY FOR A
26 PERIOD NOT TO EXCEED FIVE YEARS AND MUST BE APPLIED FIRST TO THE
27 EARLIEST INCOME TAX YEARS POSSIBLE. ANY CREDIT REMAINING AFTER

1 SAID PERIOD MAY NOT BE REFUNDED OR CREDITED TO THE TAXPAYER.

2 ~~(4)~~ (5) A partnership, S corporation, limited liability company, or
3 other entity electing not to be taxed as a corporation may pass through the
4 credit allowed by IN this section in a tax year to its participating partners,
5 shareholders, or members, referred to in this ~~subsection (4)~~ SUBSECTION
6 (5) as the "investors", in any percentage the entity chooses, up to the
7 amount of the credit earned in the tax year. Credits earned but unclaimed
8 in a tax year for which the entity elects to be taxed as a corporation may
9 not be distributed to investors in a later tax year for which the entity elects
10 not to be taxed as a corporation. In a tax year for which the entity elects
11 not to be taxed as a corporation, all credits passed through to investors
12 may be carried forward at the investor level for the carryover period
13 specified in ~~subsection (3)~~ SUBSECTION (4) of this section.

14 ~~(5) (a) If the revenue estimate prepared by the staff of the~~
15 ~~legislative council in December 2008, December 2009, or December 2010~~
16 ~~indicates that the amount of total general fund revenues for the current~~
17 ~~fiscal year will not be sufficient to grow the total state general fund~~
18 ~~appropriations by six percent over such appropriations for the previous~~
19 ~~fiscal year, then the credit authorized by this section shall not be allowed~~
20 ~~for the income tax year following the year in which the estimate is~~
21 ~~prepared; except that a taxpayer who would have been eligible to claim~~
22 ~~a credit pursuant to this section in an income tax year in which the credit~~
23 ~~is not allowed may claim the credit in the next income tax year in which~~
24 ~~the revenue estimate indicates that the amount of total general fund~~
25 ~~revenues will be sufficient to grow the total state general fund~~
26 ~~appropriations by six percent over such appropriations for the previous~~
27 ~~fiscal year.~~

1 ~~(b) On or before January 1, 2009, January 1, 2010, and January 1,~~
2 ~~2011, the department of revenue shall publish a notice on its web site~~
3 ~~indicating whether the credit authorized by this section is allowed~~
4 ~~pursuant to paragraph (a) of this subsection (5) for the income tax year~~
5 ~~beginning on that day.~~

6 (6) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2022.

7 **SECTION 3. Safety clause.** The general assembly hereby finds,
8 determines, and declares that this act is necessary for the immediate
9 preservation of the public peace, health, and safety.