

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0238.01 Bob Lackner x4350

HOUSE BILL 18-1125

HOUSE SPONSORSHIP

Wilson,

SENATE SPONSORSHIP

(None),

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE CREATION OF A CREDIT AGAINST THE STATE INCOME
102 TAX AS A PILOT PROGRAM TO PROMOTE EMPLOYER-ASSISTED
103 HOUSING PROJECTS IN RURAL AREAS.

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>.)

As a pilot program to promote employer-assisted housing projects in rural areas, for income tax years commencing on or after January 1, 2018, but prior to January 1, 2022, the bill creates a state income tax credit for a donation a taxpayer makes to a sponsor that is used solely for the costs associated with an employer-assisted eligible activity in a rural

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

area. The bill defines "sponsor" to mean the Colorado housing and finance authority, a housing authority operated by a county or municipality, or a nonprofit corporation that has been designated as a community development corporation under the federal tax code.

The amount of the credit allowed by the bill is 20% of the approved amount of the donation as documented in a form and manner acceptable to the department of revenue (department); except that the aggregate amount of the credit awarded to any one taxpayer is limited to \$400 in any one income tax year.

If the amount of the credit allowed exceeds the amount of the taxpayer's income tax liability in the income tax year for which the credit is being claimed, the amount of the credit not used as an offset against income taxes in such income tax year is not allowed as a refund but may be carried forward and applied against the income tax due in each of the 5 succeeding income tax years, but must first be applied against the income tax due for the earliest of the income tax years possible.

A taxpayer claiming the credit allowed by the bill is required to submit, maintain, and record any information that the department may require by rule regarding the taxpayer's donation to the sponsor, including the certificate received evidencing the donation. The bill specifies various verification procedures that the taxpayer and sponsor must follow for the taxpayer to be able to claim the credit.

The bill requires each sponsor that has issued certificates evidencing donations in a calendar year in the cumulative amount of \$10,000 or more to report to the general assembly by the deadlines specified in the bill on the overall economic activity, usage, and impact to the state from the employer-assisted eligible activity for which it has certified a donation eligible for a tax credit under the bill.

The bill requires the department and the division of housing within the department of local affairs (division) to promulgate any rules necessary to facilitate the effective implementation of this tax credit. The department and the division may each develop policies and procedures necessary to facilitate the effective implementation of the tax credit.

The bill prohibits a taxpayer from claiming the tax credit under the bill for a donation for which the taxpayer is claiming any other state tax credit or deduction.

By the deadlines specified in the bill, the division is required to provide the department with an electronic report on the taxpayers who have received a tax credit under the bill for the calendar year that conforms to the income tax year for which the credit is allowed. The bill specifies information the report must contain.

The tax credit is repealed, effective July 1, 2032.

1 **SECTION 1.** In Colorado Revised Statutes, **add** 39-22-539 as
2 follows:

3 **39-22-539. Pilot program - credit for the donation of money or**
4 **property to the sponsor of an employer-assisted housing project**
5 **located in a rural area - report to general assembly - rules - legislative**
6 **declaration - definitions - repeal.** (1) THE GENERAL ASSEMBLY FINDS,
7 DETERMINES, AND DECLARES THAT:

8 (a) SINCE 2000, THE STATE'S NEED FOR AFFORDABLE HOUSING IN
9 ALL GEOGRAPHIC REGIONS HAS GROWN EXPONENTIALLY. AMONG OTHER
10 EFFECTS, THE IMMENSE DEMAND FOR AFFORDABLE HOUSING IS A HUGE
11 IMPEDIMENT TO ECONOMIC GROWTH AND OPPORTUNITY WITHIN THE STATE
12 AND THE ABILITY OF THE STATE TO PROVIDE A HIGH QUALITY OF LIFE FOR
13 ALL ITS RESIDENTS AND TO DEVELOP, ATTRACT, AND MAINTAIN A HIGH
14 QUALITY WORKFORCE.

15 (b) A SIGNIFICANT SEGMENT OF THE STATE'S POPULATION,
16 INCLUDING MANY OF THE STATE'S TEACHERS, EMERGENCY RESPONDERS,
17 HEALTH CARE PROFESSIONALS, AND SMALL BUSINESS OWNERS AND
18 EMPLOYEES, EARN TOO MUCH ON AN ANNUAL BASIS TO QUALIFY FOR MOST
19 FEDERAL AND STATE HOUSING ASSISTANCE BUT DO NOT MAKE ENOUGH IN
20 YEARLY INCOME TO BE ABLE TO AFFORD MARKET RATE HOUSING,
21 PARTICULARLY HOUSING THAT MAY BE IN CLOSE PROXIMITY TO THEIR
22 PLACE OF EMPLOYMENT.

23 (c) THE SHORTAGE OF AFFORDABLE HOUSING THAT IS CLOSE TO
24 EMPLOYEES' PLACES OF EMPLOYMENT IS AN ESPECIALLY ACUTE PROBLEM
25 FOR WORKERS IN MANY OF THE STATE'S RURAL AREAS.

26 (d) BY ENACTING THE TAX CREDIT CREATED IN THIS SECTION, THE
27 GENERAL ASSEMBLY INTENDS TO PROVIDE CERTAIN FINANCIAL INCENTIVES

1 TO ENCOURAGE THE DEVELOPMENT AND GROWTH OF EMPLOYER-ASSISTED
2 HOUSING PROJECTS THAT ARE LOCATED IN RURAL AREAS FOR THE PURPOSE
3 OF EXPANDING THE SUPPLY OF HOUSING IN CLOSE PROXIMITY TO
4 WORKPLACES FOR INDIVIDUALS IN MODERATE-INCOME HOUSEHOLDS WHO
5 LIVE AND WORK IN RURAL AREAS OF THE STATE. THIS ACT IS CREATED AS
6 A PILOT PROGRAM TO ENABLE INTERESTED PARTIES TO STUDY THE STATE'S
7 EXPERIENCE WITH THE PROGRAM AFTER THE LAST OF THE INCOME TAX
8 YEARS FOR WHICH IT TAKES EFFECT TO SEE WHETHER IT PROMOTES THE
9 LEGISLATIVE PURPOSE OF PROMOTING EMPLOYER-ASSISTED HOUSING
10 PROJECTS IN RURAL AREAS.

11 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
12 REQUIRES:

13 (a) "CERTIFICATE" MEANS A DOCUMENT ISSUED BY A SPONSOR IN
14 A FORMAT ACCEPTABLE TO THE DEPARTMENT EVIDENCING A DONATION
15 RECEIVED TO SUPPORT AN EMPLOYER-ASSISTED ELIGIBLE ACTIVITY IN A
16 RURAL AREA.

17 (b) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE OR ANY
18 SUCCESSOR ENTITY.

19 (c) "DIVISION" MEANS THE DIVISION OF HOUSING IN THE
20 DEPARTMENT OF LOCAL AFFAIRS CREATED IN SECTION 24-32-704 (1).

21 (d) "DONATION" MEANS CASH, SECURITIES, OR REAL PROPERTY
22 THAT IS DONATED TO A SPONSOR THAT IS USED SOLELY FOR OR
23 ASSOCIATED WITH AN EMPLOYER-ASSISTED ELIGIBLE ACTIVITY.

24 (e) "EMPLOYER-ASSISTED ELIGIBLE ACTIVITY" MEANS AN ACTIVITY
25 THAT:

26 (I) CREATES OR PRESERVES AFFORDABLE HOUSING FOR ONE OR
27 MORE MODERATE-INCOME HOUSEHOLDS NEAR THEIR PLACE OF

1 EMPLOYMENT IN A RURAL AREA;

2 (II) ASSISTS ONE OR MORE MODERATE-INCOME HOUSEHOLDS IN
3 OBTAINING SAFE AND AFFORDABLE HOUSING NEAR THEIR PLACE OF
4 EMPLOYMENT IN A RURAL AREA; OR

5 (III) BUILDS THE CAPACITY OF A SPONSOR THAT IS AN ELIGIBLE
6 NONPROFIT ORGANIZATION AND THAT IS LOCATED IN A RURAL COUNTY TO
7 PROVIDE HOUSING OPPORTUNITIES FOR ONE OR MORE MODERATE-INCOME
8 HOUSEHOLDS LIVING IN A RURAL AREA.

9 (f) "MODERATE-INCOME HOUSEHOLD" MEANS A HOUSEHOLD
10 WHOSE ADJUSTED INCOME IS LESS THAN ONE HUNDRED TWENTY PERCENT
11 OF THE MEDIAN INCOME WITHIN THE GEOGRAPHIC AREA OF THE LOCATION
12 OF THE EMPLOYER-ASSISTED ELIGIBLE ACTIVITY, ADJUSTED FOR FAMILY
13 SIZE, AS SUCH ADJUSTED INCOME AND MEDIAN INCOME FOR THE
14 GEOGRAPHIC AREA ARE DETERMINED FROM TIME TO TIME BY THE UNITED
15 STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR THE
16 PURPOSE OF SECTION 8 OF THE "UNITED STATES HOUSING ACT OF 1937",
17 42 U.S.C. SEC. 1437, AS AMENDED.

18 (g) "RURAL AREA" MEANS A COUNTY THAT IS LOCATED IN A
19 NONMETROPOLITAN AREA OF THE STATE THAT EITHER HAS NO
20 MUNICIPALITY WITH FIFTY THOUSAND OR MORE PERMANENT RESIDENTS
21 WITHIN ITS TERRITORIAL BOUNDARIES, BASED UPON THE MOST RECENT
22 POPULATION ESTIMATES PUBLISHED BY THE UNITED STATES CENSUS
23 BUREAU, OR THAT SATISFIES ALTERNATE CRITERIA FOR THE DESIGNATION
24 OF A RURAL AREA AS MAY BE PROMULGATED BY THE FEDERAL OFFICE OF
25 MANAGEMENT AND BUDGET.

26 (h) "SPONSOR" MEANS:

27 (I) THE COLORADO HOUSING AND FINANCE AUTHORITY CREATED

1 IN SECTION 29-4-704 (1);

2 (II) ANY HOUSING AUTHORITY OPERATED BY ANY MUNICIPALITY
3 OR COUNTY IN THE STATE;

4 (III) A NONPROFIT ORGANIZATION THAT IS DESIGNATED AS A
5 COMMUNITY DEVELOPMENT CORPORATION UNDER TITLE VII OF THE
6 FEDERAL "ECONOMIC OPPORTUNITY ACT OF 1964", 42 U.S.C. SEC. 2701
7 ET. SEQ., AS AMENDED; OR

8 (IV) AN INTERNATIONAL, NONGOVERNMENTAL, NOT FOR PROFIT
9 ORGANIZATION WHOSE MISSION IS CONCENTRATED ON CONSTRUCTING
10 AFFORDABLE HOUSING.

11 (i) "TAXPAYER" MEANS A PERSON MAKING A DONATION WHO FILES
12 AN INCOME TAX RETURN UNDER THIS ARTICLE 22.

13 (3) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
14 JANUARY 1, 2019, BUT PRIOR TO JANUARY 1, 2023, THERE SHALL BE
15 ALLOWED FOR ANY TAXPAYER A CREDIT AGAINST THE INCOME TAXES
16 IMPOSED BY THIS ARTICLE 22 FOR A DONATION THE TAXPAYER MAKES TO
17 A SPONSOR THAT IS USED SOLELY FOR THE COSTS ASSOCIATED WITH AN
18 EMPLOYER-ASSISTED ELIGIBLE ACTIVITY IN A RURAL AREA.

19 (b) THE AMOUNT OF THE CREDIT ALLOWED BY THIS SECTION IS
20 TWENTY PERCENT OF THE APPROVED AMOUNT OF THE DONATION AS
21 DOCUMENTED IN A FORM AND MANNER ACCEPTABLE TO THE DEPARTMENT;
22 EXCEPT THAT THE AGGREGATE AMOUNT OF THE CREDIT AWARDED TO ANY
23 ONE TAXPAYER UNDER THIS SECTION SHALL NOT EXCEED FOUR HUNDRED
24 DOLLARS IN ANY ONE INCOME TAX YEAR.

25 (4) IF THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THIS
26 SECTION EXCEEDS THE AMOUNT OF THE INCOME TAX OTHERWISE DUE ON
27 THE TAXPAYER'S INCOME IN THE INCOME TAX YEAR FOR WHICH THE

1 CREDIT IS BEING CLAIMED, THE AMOUNT OF THE CREDIT NOT USED AS AN
2 OFFSET AGAINST INCOME TAXES IN SUCH INCOME TAX YEAR IS NOT
3 ALLOWED AS A REFUND BUT MAY BE CARRIED FORWARD AND APPLIED
4 AGAINST THE INCOME TAX DUE IN EACH OF THE FIVE SUCCEEDING INCOME
5 TAX YEARS, BUT MUST FIRST BE APPLIED AGAINST THE INCOME TAX DUE
6 FOR THE EARLIEST OF THE INCOME TAX YEARS POSSIBLE.

7 (5) (a) A TAXPAYER CLAIMING THE CREDIT ALLOWED BY THIS
8 SECTION SHALL SUBMIT, MAINTAIN, AND RECORD ANY INFORMATION THAT
9 THE DEPARTMENT MAY REQUIRE BY RULE REGARDING THE TAXPAYER'S
10 DONATION TO THE SPONSOR, INCLUDING THE CERTIFICATE RECEIVED
11 EVIDENCING THE DONATION. THE CERTIFICATE MUST STATE THE
12 EFFECTIVE DATE OF THE DONATION. A TAXPAYER SHALL ELECTRONICALLY
13 FILE WITH THE DEPARTMENT THE CERTIFICATE THE TAXPAYER RECEIVES
14 FROM THE SPONSOR. THE DIVISION IS RESPONSIBLE FOR VERIFYING THE
15 INFORMATION STATED ON THE TAX CERTIFICATES SUBMITTED BY A
16 TAXPAYER CLAIMING A CREDIT ALLOWED BY THIS SECTION. THE DIVISION
17 MAY IMPOSE A CHARGE ON THE TAXPAYER THAT REFLECTS THE DIVISION'S
18 ACTUAL COSTS IN PROCESSING THE INFORMATION SUBMITTED BY THE
19 TAXPAYER IN ORDER TO CLAIM A TAX CREDIT ALLOWED BY THIS SECTION.

20 (b) THE SPONSOR RECEIVING THE DONATION SHALL SUBMIT AND
21 MAINTAIN SUCH RECORDS AS REQUIRED BY THE DEPARTMENT TO ENSURE
22 THAT AFFORDABLE HOUSING OPPORTUNITIES ARE BEING PROVIDED BY THIS
23 SECTION.

24 (6) EACH SPONSOR THAT HAS ISSUED CERTIFICATES EVIDENCING
25 DONATIONS IN A CALENDAR YEAR UNDER THIS SECTION IN THE
26 CUMULATIVE AMOUNT OF TEN THOUSAND DOLLARS OR MORE SHALL
27 REPORT TO THE GENERAL ASSEMBLY BY MARCH 1, 2020, AND BY MARCH

1 1 OF EACH YEAR THEREAFTER, THROUGH AND INCLUDING MARCH 1, 2023,
2 ON THE OVERALL ECONOMIC ACTIVITY, USAGE, AND IMPACT TO THE STATE
3 FROM THE EMPLOYER-ASSISTED ELIGIBLE ACTIVITY FOR WHICH IT HAS
4 CERTIFIED A DONATION ELIGIBLE FOR A TAX CREDIT UNDER THIS SECTION.

5 (7) THE DEPARTMENT MAY RECAPTURE TAX CREDITS PROVIDED TO
6 A TAXPAYER IF THE SPONSOR CERTIFYING THE DONATION IS UNABLE TO
7 DOCUMENT OR VALIDATE COMPLETION OF THE EMPLOYER-ASSISTED
8 ELIGIBLE ACTIVITIES WITHIN FIVE YEARS OF THE EFFECTIVE DATE OF THE
9 DONATION BEING CERTIFIED.

10 (8) THE DEPARTMENT AND THE DIVISION SHALL PROMULGATE, IN
11 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, ANY RULES NECESSARY TO
12 FACILITATE THE EFFECTIVE IMPLEMENTATION OF THIS SECTION. THE
13 DEPARTMENT AND THE DIVISION MAY EACH DEVELOP POLICIES AND
14 PROCEDURES NECESSARY TO FACILITATE THE EFFECTIVE IMPLEMENTATION
15 OF THIS SECTION.

16 (9) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A
17 TAXPAYER SHALL NOT CLAIM A CREDIT UNDER THIS SECTION FOR A
18 DONATION FOR WHICH THE TAXPAYER IS CLAIMING ANY OTHER STATE TAX
19 CREDIT OR DEDUCTION.

20 (10) NOT LATER THAN DECEMBER 1 OF EACH YEAR IN WHICH THE
21 DIVISION OF HOUSING VERIFIES A TAX CREDIT IN ACCORDANCE WITH
22 SUBSECTION (5)(a) OF THIS SECTION, THE DIVISION SHALL PROVIDE THE
23 DEPARTMENT WITH AN ELECTRONIC REPORT ON THE TAXPAYERS WHO
24 HAVE RECEIVED A CREDIT ALLOWED BY THIS SECTION FOR THE CALENDAR
25 YEAR THAT CONFORMS TO THE INCOME TAX YEAR FOR WHICH THE CREDIT
26 IS ALLOWED. THE REPORT MUST INCLUDE THE FOLLOWING INFORMATION:

27 (a) THE NAME OF THE TAXPAYER;

1 (b) THE LAST SEVEN DIGITS OF THE TAXPAYER'S SOCIAL SECURITY
2 NUMBER OR FEDERAL EMPLOYEE IDENTIFICATION NUMBER;

3 (c) THE AMOUNT OF THE CREDIT ALLOWED BY THIS SECTION THAT
4 IS ALLOCATED TO THE TAXPAYER; AND

5 (d) IF THE TAXPAYER IS A PASS-THROUGH ENTITY, THE NAMES OF
6 ANY OTHER MEMBERS OF OR PARTNERS IN SUCH ENTITY, THE LAST SEVEN
7 DIGITS OF THE SOCIAL SECURITY NUMBERS OR FEDERAL IDENTIFICATION
8 NUMBERS OF SUCH MEMBERS OR PARTNERS, AND THE PERCENTAGE OF
9 OWNERSHIP INTEREST HELD IN THE ENTITY BY SUCH MEMBERS OR
10 PARTNERS.

11 (11) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2032.

12 **SECTION 2. Act subject to petition - effective date.** This act
13 takes effect at 12:01 a.m. on the day following the expiration of the
14 ninety-day period after final adjournment of the general assembly (August
15 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
16 referendum petition is filed pursuant to section 1 (3) of article V of the
17 state constitution against this act or an item, section, or part of this act
18 within such period, then the act, item, section, or part will not take effect
19 unless approved by the people at the general election to be held in
20 November 2018 and, in such case, will take effect on the date of the
21 official declaration of the vote thereon by the governor.