

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0606.01 Esther van Mourik x4215

HOUSE BILL 18-1013

HOUSE SPONSORSHIP

Garnett,

SENATE SPONSORSHIP

Priola,

House Committees

Finance

Appropriations

Senate Committees

A BILL FOR AN ACT

101 CONCERNING AN INCOME TAX CREDIT FOR CHARITABLE
102 CONTRIBUTIONS TO AN ELIGIBLE ENDOWMENT FUND.

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 the "Nonprofit Sustainability Act of 2018". For income tax years commencing on or after January 1, 2019, but prior to January 1, 2022, the bill allows an individual taxpayer to claim an income tax credit for a contribution of money to an eligible endowment fund that is equal to 25% of the contribution. An "eligible endowment fund" is defined in the bill as an endowment fund that is managed in accordance

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.

with the "Uniform Prudent Management of Institutional Funds Act".

A Colorado charitable organization that receives the donation is required to provide a credit certificate to the taxpayer, who must submit the certificate to the department of revenue along with his or her tax return. The maximum credit an individual may claim for an income tax year is \$5,000. Unused credits are not refunded and may not be carried forward. A taxpayer may not claim the credit if he or she claims any other state income tax credit for the same charitable contribution. The department of revenue is required to track all the credits claimed in each income tax year and, when the total amount of credits claimed equals twelve million dollars per income tax year, is required to disallow all subsequent credits claimed in that income tax year.

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

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

4 **39-22-539. Credit for charitable contributions - short title -**
5 **legislative declaration - definitions - repeal.** (1) THE SHORT TITLE OF
6 THIS SECTION IS THE "NONPROFIT SUSTAINABILITY ACT OF 2018".

7 (2) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT
8 THE INTENDED PURPOSE OF THE TAX CREDIT CREATED IN THIS SECTION IS
9 TO ENCOURAGE THE DONATION OF MONEY TO ELIGIBLE ENDOWMENT
10 FUNDS FOR CHARITABLE PURPOSES, WHICH WILL RESULT IN INCREASED
11 ECONOMIC ACTIVITY AND COMMUNITY DEVELOPMENT WITHIN THE STATE.

12 (3) AS USED IN THIS SECTION:

13 (a) "COLORADO CHARITABLE ORGANIZATION" MEANS AN
14 ORGANIZATION THAT IS EXEMPT FROM FEDERAL TAXATION UNDER SECTION
15 501 (c)(3) OF THE INTERNAL REVENUE CODE AND THAT IS ORGANIZED AND
16 OPERATED WITHIN THE STATE.

17 (b) "ELIGIBLE ENDOWMENT FUND" MEANS AN ENDOWMENT FUND
18 AS DEFINED IN SECTION 15-1-1102 (2), THAT IS REQUIRED TO BE MANAGED
19 IN ACCORDANCE WITH THE "UNIFORM PRUDENT MANAGEMENT OF

1 INSTITUTIONAL FUNDS ACT", PART 11 OF ARTICLE 1 OF TITLE 15.
2 "ELIGIBLE ENDOWMENT FUND" DOES NOT INCLUDE A DONOR ADVISED
3 FUND AS DEFINED IN SECTION 4966 (d)(2)(A) OF THE INTERNAL REVENUE
4 CODE, OR A PRIVATE FOUNDATION AS DEFINED IN SECTION 509 (a) OF THE
5 INTERNAL REVENUE CODE.

6 (4) (a) EXCEPT AS PROVIDED IN SUBSECTION (4)(b)(III) OF THIS
7 SECTION, FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
8 1, 2019, BUT PRIOR TO JANUARY 1, 2022, AN INDIVIDUAL WHO MAKES A
9 CONTRIBUTION OF MONEY TO A COLORADO CHARITABLE ORGANIZATION
10 DURING THE INCOME TAX YEAR THAT IS HELD AS PART OF AN ELIGIBLE
11 ENDOWMENT FUND IS ALLOWED A CREDIT AGAINST THE INCOME TAXES
12 IMPOSED BY THIS ARTICLE 22 IN AN AMOUNT EQUAL TO TWENTY-FIVE
13 PERCENT OF THE CONTRIBUTION. THE CREDIT MAY BE CLAIMED
14 REGARDLESS OF WHETHER THE COLORADO CHARITABLE ORGANIZATION
15 THAT RECEIVED THE CONTRIBUTION HOLDS THE ENDOWMENT FUND OR
16 WHETHER ANOTHER COLORADO CHARITABLE ORGANIZATION HOLDS THE
17 ENDOWMENT FUND ON ITS BEHALF. THE MAXIMUM TOTAL CREDIT AN
18 INDIVIDUAL MAY CLAIM UNDER THIS SECTION FOR ALL OF THE
19 INDIVIDUAL'S CONTRIBUTIONS IN A TAXABLE YEAR IS FIVE THOUSAND
20 DOLLARS.

21 (b) (I) THE COLORADO CHARITABLE ORGANIZATION HOLDING THE
22 CONTRIBUTION AS AN ELIGIBLE ENDOWMENT FUND SHALL ISSUE A CREDIT
23 CERTIFICATE TO THE TAXPAYER THAT:

24 (A) IDENTIFIES THE TAXPAYER;

25 (B) IDENTIFIES THE COLORADO CHARITABLE ORGANIZATION
26 HOLDING THE CONTRIBUTION AS AN ELIGIBLE ENDOWMENT FUND;

27 (C) IDENTIFIES THE AMOUNT OF CASH PROVIDED BY THE

1 TAXPAYER; AND

2 (D) CERTIFIES THAT THE CONTRIBUTION WAS MADE TO AN
3 ELIGIBLE ENDOWMENT FUND.

4 (II) TO CLAIM THE CREDIT UNDER THIS SECTION, THE TAXPAYER
5 MUST:

6 (A) FILE THE CREDIT CERTIFICATE WITH THE DEPARTMENT OF
7 REVENUE UPON RECEIPT FROM THE COLORADO CHARITABLE
8 ORGANIZATION; AND

9 (B) INCLUDE THE CREDIT CERTIFICATE WITH THE INCOME TAX
10 RETURN FILED WITH THE DEPARTMENT OF REVENUE.

11 (III) THE DEPARTMENT OF REVENUE SHALL TRACK ALL THE
12 CREDITS CLAIMED UNDER THIS SECTION IN EACH INCOME TAX YEAR, AND,
13 WHEN THE TOTAL AMOUNT OF CREDITS CLAIMED EQUALS TWELVE MILLION
14 DOLLARS PER INCOME TAX YEAR, SHALL DISALLOW ALL SUBSEQUENT
15 CREDITS CLAIMED IN THAT INCOME TAX YEAR. UNTIL THE TWELVE
16 MILLION DOLLAR PER INCOME TAX YEAR CAP IS REACHED, THE CREDITS
17 SHALL BE ALLOWED IN THE ORDER IN WHICH THEY ARE CLAIMED BY THE
18 TAXPAYER. IF THE CREDIT CLAIMED IS DISALLOWED BECAUSE THE TWELVE
19 MILLION DOLLAR PER INCOME TAX YEAR CAP HAS BEEN REACHED, THE
20 DEPARTMENT OF REVENUE SHALL NOTIFY THE TAXPAYER OF THE
21 DISALLOWANCE.

22 (5) IF THE CREDIT EXCEEDS THE AMOUNT OF INCOME TAX DUE ON
23 THE INCOME OF THE TAXPAYER FOR THE TAX YEAR DURING WHICH THE
24 CONTRIBUTION WAS MADE, THE AMOUNT OF THE UNUSED CREDIT IS NOT
25 ALLOWED AS A REFUND AND MAY NOT BE CARRIED FORWARD AND APPLIED
26 AGAINST THE INCOME TAX DUE IN ANY SUCCEEDING INCOME TAX YEARS.

27 (6) A TAXPAYER MAY NOT CLAIM THE CREDIT OTHERWISE

1 ALLOWED UNDER THIS SECTION IF THE TAXPAYER CLAIMS ANY OTHER
2 STATE INCOME TAX CREDIT FOR THE SAME CHARITABLE CONTRIBUTION.

3 (7) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2025.

4 **SECTION 2. Act subject to petition - effective date.** This act
5 takes effect at 12:01 a.m. on the day following the expiration of the
6 ninety-day period after final adjournment of the general assembly (August
7 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
8 referendum petition is filed pursuant to section 1 (3) of article V of the
9 state constitution against this act or an item, section, or part of this act
10 within such period, then the act, item, section, or part will not take effect
11 unless approved by the people at the general election to be held in
12 November 2018 and, in such case, will take effect on the date of the
13 official declaration of the vote thereon by the governor.