A BILL FOR AN ACT

CONCERNING THE CREATION OF THE COLORADO HOMELESS CONTRIBUTION INCOME TAX CREDIT, AND, IN 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 repeals an existing income tax credit available to taxpayers who make contributions to enterprise zone administrators to promote temporary, emergency, or transitional housing programs for people experiencing homelessness and replaces that income tax credit with one that is available in the entire state. Instead of having the
enterprise zone administrators and the office of economic development manage the credit, the bill places that responsibility on the division of housing in the department of local affairs.

The bill also expands the scope so that a taxpayer may claim the tax credit when permissible contributions are made not only to an approved project, but also to approved nonprofit organizations providing certain qualifying activities.

The amount of the income tax credit remains the same for each contribution; except that, for contributions made in an underserved, rural county, the amount is 30% rather than 25%, and the new credit is capped at $750,000 in contributions for the nonprofit organization, and if the nonprofit organization also administers one or more approved projects, the new credit is capped at an additional $750,000 per project. The new credit's availability is limited to 8 years, and, in the same manner as the enterprise zone tax credit that is being repealed, any credit in excess of a taxpayer's liability for the income tax year for which the credit is claimed may be carried forward for up to 5 years.

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

SECTION 1. In Colorado Revised Statutes, add 39-22-543 as follows:

39-22-543. Colorado homeless contribution tax credit - legislative declaration - definitions - repeal. (1) (a) In accordance with section 39-21-304 (1), which requires each bill that creates a new tax expenditure to include a tax preference performance statement as part of a statutory legislative declaration, the general assembly finds and declares that the general legislative purpose of this tax expenditure is to induce certain designated behavior by taxpayers. Specifically, this tax expenditure is intended to encourage taxpayers to make contributions to approved nonprofit organizations providing certain qualifying activities to leverage financial contributions from Colorado residents and businesses to support providing appropriate housing and services to assist
INDIVIDUALS AND FAMILIES EXPERIENCING HOMELESSNESS. THE TAX EXPENDITURE WILL CATALYZE AND STRENGTHEN STATEWIDE EFFORTS TO ADDRESS THE EFFECTS OF HOMELESSNESS THROUGH PRIVATE INVESTMENT AND CIVIC ENGAGEMENT IN COLORADO-BASED SERVICE PROVIDERS FOR INDIVIDUALS AND FAMILIES EXPERIENCING HOMELESSNESS.

(b) The annual review presented by the division as set forth in subsection (6) of this section will allow the General Assembly and the State Auditor to measure the effectiveness of the tax expenditure.

(2) As used in this section, unless the context otherwise requires:

(a) "Approved nonprofit organization" means a nonprofit organization that provides a qualifying activity and that has been reviewed and approved by the division as specified in subsection (5) of this section and has a history or track record of success in delivering services and demonstrated financial viability.

(b) "Approved project" means a project administered by an approved nonprofit organization that has been evaluated, reviewed, and approved by the division as specified in subsection (5) of this section, and that implements one or more qualifying activities.

(c) "Capital campaign" means a campaign that encourages public and private partnerships and is focused on raising funds for a specific capital project. The capital project must involve construction and implementation that commences within three years of the project being approved by the division. A "capital
CAMPAIGN” MUST INCLUDE A CAMPAIGN FOR ONE OR MORE OF THE FOLLOWING:

(I) SUPPORTIVE HOUSING FOR INDIVIDUALS OR FAMILIES EXPERIENCING HOMELESSNESS;

(II) COMMUNITY OVERNIGHT SHELTERS, COMMUNITY DAY SHELTERS, OR EMERGENCY SHELTERS;

(III) FACILITIES, INCLUDING THE ACQUISITION OR REHABILITATION OF FACILITIES, USED TO PROVIDE HOUSING OR SERVICES TO INDIVIDUALS OR FAMILIES EXPERIENCING HOMELESSNESS, INCLUDING FACILITIES THAT ARE NECESSARY TO PERFORM QUALIFYING SERVICES; OR

(IV) FACILITIES NEEDED TO PROVIDE ADMINISTRATIVE SUPPORT FOR APPROVED PROJECTS.

(d) "DIVISION OF HOUSING" OR "DIVISION" MEANS THE DIVISION OF HOUSING IN THE DEPARTMENT OF LOCAL AFFAIRS CREATED IN SECTION 24-32-704.

(e) "IN-KIND CONTRIBUTION" MEANS A CONTRIBUTION THAT IS NOT A MONETARY CONTRIBUTION AND IS VALUED OVER FIVE THOUSAND DOLLARS PURSUANT TO AN INDEPENDENT THIRD-PARTY VALUATION, INCLUDING A CONTRIBUTION OF PROPERTY, SERVICES, STOCKS, BONDS, OR OTHER INTANGIBLE PROPERTY.

(f) "MONETARY CONTRIBUTION" MEANS A CONTRIBUTION IN UNITED STATES CURRENCY IN ANY FORM, INCLUDING CASH, PAYMENT MADE BY CHECK, ELECTRONIC FUNDS TRANSFER, DEBIT CARD, OR CREDIT CARD.

(g) "NONPROFIT ORGANIZATION" MEANS ANY ORGANIZATION IN GOOD STANDING WITH THE SECRETARY OF STATE THAT IS EXEMPT FROM TAXATION PURSUANT TO SECTION 501 (a) OF THE FEDERAL "INTERNAL
Revenue Code of 1986", 26 U.S.C. sec. 501 (a), as amended, and
listed as an exempt organization in section 501(c)(3) of the
as amended.

(h) "Operational service" means a service with the primary
focus on assisting individuals or families experiencing
homelessness or, in the case of prevention, individuals or
families facing imminent risk of homelessness. An operational
service must also be a service that supports or provides:

(I) Outreach efforts to engage or provide services to
unsHELTERED INDIVIDUALS OR FAMILIES EXPERIENCING HOMELESSNESS;

(II) Safe emergency, temporary, or transitional shelters,
such as day shelters, that may include supportive services to
individuals or families experiencing homelessness;

(III) Prevention services that target individuals or
families facing imminent risk of homelessness as defined by the
department of local affairs;

(IV) Supportive housing for individuals or families
experiencing homelessness or who would otherwise be homeless;

(V) Services designed to assist individuals or families
experiencing homelessness to obtain an employment outcome,
including job placement services, services that help individuals
become workforce ready;

(VI) Case management, including establishing client goals
for individuals or families experiencing homelessness and
coordination of referrals to address health or mental health
benefit procurement and procurement of other essential
SERVICES FOR INDIVIDUALS OR FAMILIES EXPERIENCING HOMELESSNESS;

(VII) SHELTERS AND SERVICES FOR SURVIVORS OF DOMESTIC VIOLENCE WHO ARE FLEEING AN ABUSIVE HOUSEHOLD; OR

(VIII) THE IMPLEMENTATION AND OPERATION OF SUCCESSOR PROJECTS OR OTHER SERVICES FOR INDIVIDUALS OR FAMILIES EXPERIENCING HOMELESSNESS THAT ARE IDENTIFIED BY THE DIVISION AS EMERGING, PROMISING, AND PROVIDING BEST PRACTICES.

(i) "QUALIFYING ACTIVITY" MEANS A CAPITAL CAMPAIGN OR AN OPERATIONAL SERVICE.

(j) "TAXPAYER" MEANS A RESIDENT INDIVIDUAL OR A DOMESTIC OR FOREIGN CORPORATION SUBJECT TO PART 3 OF THIS ARTICLE 22, A PARTNERSHIP, S CORPORATION, OR OTHER SIMILAR PASS-THROUGH ENTITY, ESTATE, OR TRUST THAT MAKES A CONTRIBUTION AS AN ENTITY, AND A PARTNER, MEMBER, AND SUBCHAPTER S SHAREHOLDER OF SUCH A PASS-THROUGH ENTITY.

(3) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2023, BUT BEFORE JANUARY 1, 2027, EXCEPT AS PROVIDED IN SUBSECTION (3)(b) OF THIS SECTION, ANY TAXPAYER WHO MAKES A MONETARY OR IN-KIND CONTRIBUTION TO AN APPROVED NONPROFIT ORGANIZATION, OR TO AN APPROVED PROJECT ADMINISTERED BY AN APPROVED NONPROFIT ORGANIZATION, IS ALLOWED A CREDIT EQUAL TO TWENTY-FIVE PERCENT OF THE TOTAL VALUE OF THE CONTRIBUTION, SUBJECT TO THE LIMITATIONS SPECIFIED IN SUBSECTION (3)(d) OF THIS SECTION.

(b) IF A TAXPAYER MAKES A MONETARY OR IN-KIND CONTRIBUTION TO AN APPROVED NONPROFIT ORGANIZATION, OR TO AN APPROVED PROJECT ADMINISTERED BY AN APPROVED NONPROFIT...
ORGANIZATION, IN AN UNDERSERVED, RURAL COUNTY, AS DEFINED BY THE
DIVISION IN ITS GUIDELINES FOR THE PROGRAM, THEN THE TAXPAYER IS
ALLOWED A CREDIT EQUAL TO THIRTY PERCENT OF THE TOTAL VALUE OF
THE CONTRIBUTION, SUBJECT TO THE LIMITATIONS IN SUBSECTION (3)(d)
OF THIS SECTION.

(c) THE APPROVED NONPROFIT ORGANIZATION THAT RECEIVES THE
ALLOWABLE CONTRIBUTION SHALL ISSUE A TAX CREDIT CERTIFICATE TO
EACH TAXPAYER THAT MAKES AN ALLOWABLE CONTRIBUTION PURSUANT
TO SUBSECTIONS (3)(a) OR (3)(b) OF THIS SECTION; EXCEPT THAT THE
APPROVED NONPROFIT ORGANIZATION SHALL NOT ISSUE TAX CREDIT
CERTIFICATES THAT TOTAL MORE THAN SEVEN HUNDRED FIFTY THOUSAND
DOLLARS PER INCOME TAX YEAR, AND IF THE APPROVED NONPROFIT
ORGANIZATION ADMINISTERS ONE OR MORE APPROVED PROJECTS, IN
ADDITION TO PROVIDING A QUALIFYING SERVICE, THEN THE APPROVED
NONPROFIT ORGANIZATION SHALL NOT ISSUE TAX CREDIT CERTIFICATES
FOR ALLOWABLE CONTRIBUTIONS TO ONE OR MORE APPROVED PROJECTS
 THAT TOTAL MORE THAN AN ADDITIONAL SEVEN HUNDRED FIFTY
THOUSAND DOLLARS PER INCOME TAX YEAR. THE TAX CREDIT
CERTIFICATE MUST STATE THE AMOUNT OF THE ALLOWABLE
CONTRIBUTION, THE TAXPAYER'S NAME, THE TAXPAYER'S SOCIAL
SECURITY NUMBER OR FEDERAL EMPLOYER IDENTIFICATION NUMBER, THE
TYPE OF THE CONTRIBUTION, THE DATE THE TAXPAYER MADE THE
CONTRIBUTION, THE AMOUNT OF THE TAX CREDIT THAT IS AUTHORIZED
FOR THAT TAXPAYER, AND ANY OTHER INFORMATION THAT THE
EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE MAY REQUIRE.
TAX CREDIT CERTIFICATES SHALL BE ISSUED IN THE ORDER OF RECEIVED
ALLOWABLE CONTRIBUTIONS.
(d) (I) (A) The credit allowed in subsections (3)(a) and (3)(b) of this section shall not exceed one hundred thousand dollars per taxpayer per tax year.

(B) For a contribution made pursuant to subsections (3)(a) or (3)(b) of this section that is made in a cash payment, the contribution must be equal to or greater than one hundred dollars.

(C) In the case of a partnership, S corporation, or other similar pass-through entity, the limitations in this subsection (3)(d) apply at the entity level.

(II) In no event is a credit allowed pursuant to this section for contributions that directly benefit the taxpayer. If a taxpayer receives a benefit for the contribution, the value of the contribution is reduced by the value of the benefit received by the taxpayer to arrive at the contribution that may be certified for the income tax credit allowed in this section.

(III) If the amount of the allowed credit exceeds the amount of income taxes otherwise due on the income of the taxpayer 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 that income tax year may be carried forward as a credit against subsequent years' income tax liability for a period not exceeding five years and must be applied first to the earliest income tax years possible. Any credit remaining after the period may not be refunded or credited to the taxpayer.

(4) On or before November 1, 2022, and on or before November 1 of each year thereafter, the division shall develop
AND POST ON THE DIVISION'S WEBSITE A LIST, INCLUDING A DESCRIPTION,
OF ALL APPROVED NONPROFIT ORGANIZATIONS AND ANY APPROVED
PROJECTS ADMINISTERED BY AN APPROVED NONPROFIT ORGANIZATION TO
WHICH TAXPAYERS MAY CONTRIBUTE DURING THE NEXT CALENDAR YEAR
FOR THE PURPOSE OF RECEIVING A TAX CREDIT PURSUANT TO THIS
SECTION. ANY MODIFICATIONS TO THE LIST, INCLUDING NONPROFIT
ORGANIZATIONS OR PROPOSED PROJECTS OF AN APPROVED NONPROFIT
ORGANIZATION THAT ARE LATER APPROVED, MUST BE POSTED ON THE
DIVISION'S WEBSITE NO LATER THAN SIXTY DAYS AFTER THE MODIFICATION
IS MADE. THE DIVISION SHALL REVIEW A PROPOSED NONPROFIT
ORGANIZATION AND ANY PROPOSED PROJECT OF AN APPROVED NONPROFIT
ORGANIZATION FOR ELIGIBILITY AND APPROVAL AS DESCRIBED IN
SUBSECTION (5) OF THIS SECTION.

(5) (a) (I) A NONPROFIT ORGANIZATION SHALL APPLY TO THE
DIVISION FOR APPROVAL TO RECEIVE ALLOWABLE CONTRIBUTIONS UNDER
THIS SECTION, INCLUDING APPROVAL OF A PROPOSED PROJECT. THE
APPLICATION MUST:

(A) SET FORTH THE QUALIFYING ACTIVITY THAT THE NONPROFIT
ORGANIZATION PROVIDES, AND, IN ADDITION, FOR A PROPOSED PROJECT,
THE QUALIFYING ACTIVITY THAT THE PROJECT WILL IMPLEMENT;

(B) PROVIDE A LETTER OF APPROVAL FROM THE NONPROFIT
ORGANIZATION'S BOARD OF DIRECTORS;

(C) PROVIDE EVIDENCE THAT THE NONPROFIT ORGANIZATION IS IN
GOOD STANDING WITH THE SECRETARY OF STATE; AND

(D) SUBMIT A RECENT AUDIT OR FINANCIAL REPORT TO THE
DIVISION IN A FORM THAT IS ACCEPTABLE TO THE DIVISION;

(II) AN ORGANIZATION THAT HAS A PROGRAM AS SET FORTH IN
SECTION 39-30-103.5 (3)(a) THAT HAS BEEN APPROVED BY THE COLORADO
ECONOMIC DEVELOPMENT COMMISSION UNDER SECTION 39-30-103.5 IS
DEEMED APPROVED FOR PURPOSES OF COMPLIANCE WITH THIS SECTION TO
receive eligible contributions unless otherwise specifically
disapproved by the Division so long as the organization:

(A) IS A NONPROFIT;

(B) PROVIDES OR HAS THE INTENT TO PROVIDE A QUALIFYING
ACTIVITY;

(C) CAN PROVIDE A LETTER OF APPROVAL FROM ITS BOARD OF
DIRECTORS;

(D) SUBMITS A RECENT AUDIT OR FINANCIAL REPORT TO THE
DIVISION IN A FORM THAT IS ACCEPTABLE TO THE DIVISION; AND

(E) NO LATER THAN FOUR YEARS FROM THE EFFECTIVE DATE OF
THIS SECTION, SUBMITS AN APPLICATION FOR REAPPROVAL PURSUANT TO
SUBSECTION (5)(g) OF THIS SECTION.

(III) WHEN REVIEWING APPLICATIONS AND ORGANIZATIONS FOR
APPROVAL PURSUANT TO SUBSECTIONS (5)(a)(I) AND (5)(a)(II) OF THIS
SECTION, WITH RESPECT TO A NONPROFIT ORGANIZATION'S PROPOSED
QUALIFYING ACTIVITY OR ACTIVITIES, THE DIVISION SHALL CONSIDER THE
FINANCIAL MANAGEMENT CAPACITY AND OPERATIONAL CAPACITY OF THE
NONPROFIT ORGANIZATION AND EVALUATE THE CAPABILITY OF THE
NONPROFIT ORGANIZATION TO ENTER A MONITORING AGREEMENT FOR THE
PURPOSE OF THE DIVISION EVALUATING THE EFFICACY OF THE NONPROFIT
ORGANIZATION AND ITS QUALIFYING ACTIVITY OR ACTIVITIES.

(b) THE DIVISION SHALL REVIEW APPLICATIONS RECEIVED
PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION IN A TIMELY MANNER
AND IN A TIME FRAME SET FORTH IN THE DIVISION'S GUIDELINES FOR THE
program. The division shall issue a notice of approval or disapproval of a nonprofit organization, a proposed project, or both in writing.

(c) The division is authorized to hold hearings in order to review a nonprofit organization's request to reconsider a decision regarding disapproval within thirty days after the date of the disapproval notice.

(d) Once approved, the nonprofit organization shall maintain an accounting system and appropriate records to track contributions received by taxpayers for which a tax credit was allowed under this section and to accurately associate the use of the contributions with qualifying activities, an approved project, or both.

(e) The division shall specify in program guidelines what information regarding qualifying activities must be reported by the nonprofit organization and can request from the nonprofit organization an audit or financial report in a form that is acceptable to the division.

(f) (I) No later than February 15, 2023, the division shall complete a review of every organization and project deemed approved under subsection (5)(a)(II) of this section, and no later than February 15, 2024, and February 15 of each year thereafter, the division shall complete a review of every other approved nonprofit organization and approved project to evaluate performance and compliance with the requirements of this section. The division must review the qualifying activities being provided and determine how the activities are addressing
CURRENT AND EMERGING NEEDS OF INDIVIDUALS AND FAMILIES
EXPERIENCING HOMELESSNESS IN EACH APPROVED NONPROFIT
ORGANIZATION'S COMMUNITY, OR, IF APPLICABLE, EACH APPROVED
PROJECT'S COMMUNITY.

(II) THE DIVISION HAS THE AUTHORITY TO MONITOR AND AUDIT
APPROVED NONPROFIT ORGANIZATIONS AND THEIR PERFORMANCE AND
MAY DISAPPROVE AN APPROVED NONPROFIT ORGANIZATION OR AN
APPROVED PROJECT OF AN APPROVED NONPROFIT ORGANIZATION IF THE
APPROVED NONPROFIT ORGANIZATION IS NOT MEETING EXPECTATIONS OR
IF THE APPROVED NONPROFIT ORGANIZATION IS OTHERWISE NOT IN
COMPLIANCE WITH OBJECTIVES OUTLINED IN THIS SECTION OR PROGRAM
GUIDELINES, OR, IF APPLICABLE, IN THE PROJECT PROPOSAL. THE DIVISION
SHALL IMMEDIATELY NOTIFY THE DEPARTMENT OF REVENUE IF AN
APPROVED NONPROFIT ORGANIZATION OR AN APPROVED PROJECT OF AN
APPROVED NONPROFIT ORGANIZATION IS DISAPPROVED AS A RESULT OF A
REVIEW OR AUDIT IN ORDER TO ENSURE THAT CONTRIBUTIONS MADE BY
TAXPAYERS ON OR AFTER THE DATE OF DISAPPROVAL ARE NO LONGER
ELIGIBLE FOR THE TAX CREDIT ALLOWED IN THIS SECTION.

(g) AN APPROVED NONPROFIT ORGANIZATION SHALL APPLY FOR
REAPPROVAL WITH THE DIVISION EVERY FOUR YEARS IN THE SAME
MANNER PROVIDED FOR APPROVAL IN SUBSECTION (5)(a)(I) OF THIS
SECTION. WHEN APPLYING FOR REAPPROVAL, THE NONPROFIT
ORGANIZATION MAY ADD OR REMOVE QUALIFYING ACTIVITIES IN THE
REAPPROVAL APPLICATION. IT IS EXPECTED THAT A NONPROFIT
ORGANIZATION WILL REVISE ANY PREVIOUSLY APPROVED GOALS,
OBJECTIVES, AND EXPECTED OUTCOMES OF ITS QUALIFYING ACTIVITIES TO
ADJUST TO CHANGES IN COMMUNITY NEEDS, EMERGING BEST PRACTICES,
AND FEEDBACK FROM THE DIVISION.

(6) The division shall present an annual review of approved nonprofit organizations and any approved projects administered by an approved nonprofit organization to the State Housing Board created in section 24-32-706. The annual review must include individual and collective outputs and outcomes of each approved nonprofit organization described in this section and must summarize contributions received and tax credit certificates issued for the reporting period, including an estimate of expected contributions for the upcoming calendar year.

(7) The division shall develop program guidelines, with stakeholder involvement, for the administration of this section.

(8) (a) On or before September 30 of each calendar year, the State Director of Housing or the Director’s designee shall transmit to the Department of Revenue the data regarding income tax credits allowed pursuant to this section that are certified or approved by the Division from January 1 through June 30 of the same calendar year.

(b) On or before March 31 of each calendar year, the State Director of Housing or the Director's designee shall transmit to the Department of Revenue the data regarding income tax credits allowed pursuant to this section that are certified or approved by the Division from July 1 through December 31 of the previous calendar year.

(9) This section is repealed, effective December 31, 2040.

SECTION 2. In Colorado Revised Statutes, 39-30-103.5, amend
(3)(a) introductory portion; and add (3)(c) as follows:

39-30-103.5. Credit against tax - contributions to enterprise zone administrators to implement economic development plans - repeal. (3) (a) Prior to January 1, 2023, monetary or in-kind contributions to promote temporary, emergency, or transitional housing programs for the homeless that offer or provide referrals to child care, job placement, and counseling services for the purpose of promoting employment for homeless persons in enterprise zones shall be deemed to be for the purpose of implementing the economic development plan for the enterprise zone and shall include but not be limited to the following types of contributions:

(c) This subsection (3) is repealed, effective December 31, 2032.

SECTION 3. Appropriation. (1) For the 2022-23 state fiscal year, $129,613 is appropriated to the department of local affairs. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) $30,595 for use by executive director's office for payments to OIT;

(b) $83,268 for use by the division of housing for personal services, which amount is based on an assumption that the division will require an additional 1.2 FTE; and

(c) $15,750 for use by the division of housing for operating expenses.

(2) For the 2022-23 state fiscal year, $30,595 is appropriated to the office of the governor for use by the office of information technology. This appropriation is from reappropriated funds received from the
department of local affairs under subsection (1)(a) of this section. To
implement this act, the office may use this appropriation to provide
information technology services for the department of local affairs.

SECTION 4. Act subject to petition - effective date. This act
takes effect at 12:01 a.m. on the day following the expiration of the
ninety-day period after final adjournment of the general assembly; except
that, if a referendum petition is filed pursuant to section 1 (3) of article V
of the state constitution against this act or an item, section, or part of this
act within such period, then the act, item, section, or part will not take
effect unless approved by the people at the general election to be held in
November 2022 and, in such case, will take effect on the date of the
official declaration of the vote thereon by the governor.