A BILL FOR AN ACT

CONCERNING THE CREATION OF THE COLORADO HOMELESS CONTRIBUTION INCOME TAX CREDIT.

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credit's availability is limited to 8 years, and, in the same manner as the enterprise zone tax credit that is being repealed, any credit in excess of a taxpayer's liability for the income tax year for which the credit is claimed may be carried forward for up to 5 years.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
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, 2031, 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) AND (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)
and (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) 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 EXPECTED OUTCOMES OF ITS QUALIFYING ACTIVITIES.
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. 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.