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,

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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
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.

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

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

39-22-539. Credit for charitable contributions - short title - legislative declaration - definitions - repeal. (1) The short title of this section is the "Nonprofit Sustainability Act of 2018".

(2) The general assembly hereby finds and declares that the intended purpose of the tax credit created in this section is to encourage the donation of money to eligible endowment funds for charitable purposes, which will result in increased economic activity and community development within the state.

(3) As used in this section:

(a) "Colorado charitable organization" means an organization that is exempt from federal taxation under section 501(c)(3) of the internal revenue code and that is organized and operated within the state.

(b) "Eligible endowment fund" means an endowment fund as defined in section 15-1-1102(2), that is required to be managed in accordance with the "Uniform Prudent Management of Institutional Funds Act".
"Eligible endowment fund" does not include a donor advised fund as defined in section 4966 (d)(2)(A) of the internal revenue code, or a private foundation as defined in section 509 (a) of the internal revenue code.

(4) (a) Except as provided in subsection (4)(b)(III) of this section, for income tax years commencing on or after January 1, 2019, but prior to January 1, 2022, an individual who makes a contribution of money to a Colorado charitable organization during the income tax year that is held as part of an eligible endowment fund is allowed a credit against the income taxes imposed by this article 22 in an amount equal to twenty-five percent of the contribution. The credit may be claimed regardless of whether the Colorado charitable organization that received the contribution holds the endowment fund or whether another Colorado charitable organization holds the endowment fund on its behalf. The maximum total credit an individual may claim under this section for all of the individual’s contributions in a taxable year is five thousand dollars.

(b) (I) The Colorado charitable organization holding the contribution as an eligible endowment fund shall issue a credit certificate to the taxpayer that:

(A) Identifies the taxpayer;

(B) Identifies the Colorado charitable organization holding the contribution as an eligible endowment fund;

(C) Identifies the amount of cash provided by the
TAXPAYER; AND

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

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

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

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

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

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

(6) A TAXPAYER MAY NOT CLAIM THE CREDIT OTHERWISE
ALLOWED UNDER THIS SECTION IF THE TAXPAYER CLAIMS ANY OTHER
STATE INCOME TAX CREDIT FOR THE SAME CHARITABLE CONTRIBUTION.

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

SECTION 2. 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 (August 8, 2018, if adjournment sine die is on May 9, 2018); 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 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.