

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-0338.01 Ed DeCecco x4216

HOUSE BILL 16-1089

HOUSE SPONSORSHIP

Moreno,

SENATE SPONSORSHIP

Holbert,

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://www.leg.state.co.us/billsummaries>.)

Beginning with the 2016 income tax year, the bill allows an individual taxpayer to claim an income tax credit for a contribution of money, securities, or property to an eligible endowment or institutional fund that is equal to 25% of the contribution. An "eligible endowment or institutional fund" means an endowment fund or an institutional fund that belongs to a Colorado charitable organization and that is managed in

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

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

A Colorado charitable organization that receives the credit 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 \$25,000. Unused credits are not refunded but may be carried forward for up to 5 income tax years. A taxpayer may not claim the credit if he or she claims any other state income tax credit for the same charitable contribution.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 39-22-538 as
3 follows:

4 **39-22-538. Credit for charitable contributions - legislative**
5 **declaration - definitions.** (1) THE GENERAL ASSEMBLY HEREBY FINDS
6 AND DECLARES THAT THE INTENDED PURPOSE OF THE TAX CREDIT
7 CREATED IN THIS SECTION IS TO ENCOURAGE THE DONATION OF MONEY,
8 PROPERTY, AND SECURITIES TO ELIGIBLE ENDOWMENT FUNDS FOR
9 CHARITABLE PURPOSES, WHICH WILL RESULT IN INCREASED ECONOMIC
10 ACTIVITY AND COMMUNITY DEVELOPMENT WITHIN THE STATE.

11 (2) AS USED IN THIS SECTION:

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

16 (b) "ELIGIBLE ENDOWMENT FUND" MEANS AN ENDOWMENT
17 FUND AS DEFINED IN SECTION 15-1-1102 (2), C.R.S., THAT IS REQUIRED TO
18 BE MANAGED IN ACCORDANCE WITH THE "UNIFORM PRUDENT
19 MANAGEMENT OF INSTITUTIONAL FUNDS ACT", PART 11 OF ARTICLE 1 OF
20 TITLE 15, C.R.S. "ELIGIBLE ENDOWMENT FUND" DOES NOT INCLUDE A

1 DONOR ADVISED FUND, AS DEFINED IN SECTION 4966 (d) (2) (A) OF THE
2 INTERNAL REVENUE CODE, OR A PRIVATE FOUNDATION, AS DEFINED IN
3 SECTION 509 (a) OF THE INTERNAL REVENUE CODE.

4 (3) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
5 JANUARY 1, 2016, BUT PRIOR TO JANUARY 1, 2019, AN INDIVIDUAL WHO
6 MAKES A CONTRIBUTION OF MONEY, SECURITIES, OR PROPERTY TO A
7 COLORADO CHARITABLE ORGANIZATION DURING THE INCOME TAX YEAR
8 THAT IS HELD AS PART OF AN ELIGIBLE ENDOWMENT FUND IS ALLOWED A
9 CREDIT AGAINST THE INCOME TAXES IMPOSED BY THIS ARTICLE IN AN
10 AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF THE NET FAIR MARKET
11 VALUE OF THE CONTRIBUTION. THE CREDIT MAY BE CLAIMED REGARDLESS
12 OF WHETHER THE COLORADO CHARITABLE ORGANIZATION THAT RECEIVED
13 THE CONTRIBUTION HOLDS THE ENDOWMENT FUND OR WHETHER ANOTHER
14 COLORADO CHARITABLE ORGANIZATION HOLDS THE ENDOWMENT FUND
15 ON ITS BEHALF. THE MAXIMUM TOTAL CREDIT AN INDIVIDUAL MAY CLAIM
16 UNDER THIS SECTION FOR ALL OF THE INDIVIDUAL'S CONTRIBUTIONS IN A
17 TAXABLE YEAR IS TWENTY-FIVE THOUSAND DOLLARS.

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

21 (A) IDENTIFIES THE TAXPAYER;

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

24 (C) IDENTIFIES THE AMOUNT OF CASH AND, FOR ANY PROPERTY
25 OTHER THAN CASH, A DESCRIPTION OF THE PROPERTY AND ITS VALUE AS
26 PROVIDED BY THE TAXPAYER; AND

27 (D) CERTIFIES THAT THE CONTRIBUTION WAS MADE TO AN

1 ELIGIBLE ENDOWMENT FUND.

2 (II) TO CLAIM THE CREDIT UNDER THIS SECTION, THE TAXPAYER
3 MUST INCLUDE THE CREDIT CERTIFICATE WITH THE INCOME TAX RETURN
4 FILED WITH THE DEPARTMENT OF REVENUE.

5 (4) IF THE CREDIT EXCEEDS THE AMOUNT OF INCOME TAX DUE ON
6 THE INCOME OF THE TAXPAYER FOR THE TAX YEAR DURING WHICH THE
7 CONTRIBUTION WAS MADE, THE AMOUNT OF THE UNUSED CREDIT IS NOT
8 REFUNDED. THE UNUSED CREDIT MAY BE CARRIED FORWARD AND APPLIED
9 AGAINST THE INCOME TAX DUE IN EACH OF THE FIVE SUCCEEDING INCOME
10 TAX YEARS, BUT MUST FIRST BE APPLIED AGAINST THE INCOME TAX DUE
11 FOR THE EARLIEST OF THE INCOME TAX YEARS POSSIBLE.

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

15 **SECTION 2. Act subject to petition - effective date.** This act
16 takes effect at 12:01 a.m. on the day following the expiration of the
17 ninety-day period after final adjournment of the general assembly (August
18 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
19 referendum petition is filed pursuant to section 1 (3) of article V of the
20 state constitution against this act or an item, section, or part of this act
21 within such period, then the act, item, section, or part will not take effect
22 unless approved by the people at the general election to be held in
23 November 2016 and, in such case, will take effect on the date of the
24 official declaration of the vote thereon by the governor.