

Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0692.01 Esther van Mourik

HOUSE BILL 10-1280

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HOUSE SPONSORSHIP

Summers,

SENATE SPONSORSHIP

Romer,

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House Committees

Finance  
Appropriations

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING AN INCENTIVE TO CREATE COLORADO NONPROFIT JOBS  
102 BY ESTABLISHING AN INCOME TAX CREDIT.

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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/billssummaries>.)*

The bill establishes the Colorado nonprofit job creation incentive tax credit for income tax years commencing on or after January 1, 2011, but before January 1, 2017. Upon approval and calculation by a nonprofit intermediary, the bill allows a taxpayer to claim a credit of 25% of any donation made to a qualified nonprofit organization that has applied to the

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.*

nonprofit intermediary for the ability to solicit donations for purposes of creating nonprofit jobs. The total amount of the credits available in a calendar year is \$1 million. The bill allows the nonprofit intermediary to review the applications of nonprofit organizations and determine if the applications meet the necessary qualifications. The bill allows the credit to be carried forward for 7 years but not refunded. The bill establishes the methods for issuing credit certificates as well as the application process. The bill also grants the department of revenue rule-making authority.

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

2           **SECTION 1.** Part 5 of article 22 of title 39, Colorado Revised  
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
4 read:

5           **39-22-534. Colorado nonprofit job creation incentive tax**  
6 **credit - rules - definitions - repeal.** (1) AS USED IN THIS SECTION,  
7 UNLESS THE CONTEXT OTHERWISE REQUIRES:

8           (a) "COLLABORATIVE OF NONPROFIT ORGANIZATIONS" MEANS A  
9 GROUP OF NONPROFIT ORGANIZATIONS THAT COLLABORATE AND JOINTLY  
10 SUBMIT ONE APPLICATION TO RECEIVE FUNDS TO CREATE NONPROFIT JOBS  
11 WITHIN SOME OR ALL OF THE COLLABORATING NONPROFIT  
12 ORGANIZATIONS.

13           (b) "CREDIT CERTIFICATE" MEANS A STATEMENT ISSUED BY A  
14 NONPROFIT INTERMEDIARY CERTIFYING THAT THE TAXPAYER'S DONATION  
15 QUALIFIES FOR THE NONPROFIT JOB CREATION INCENTIVE TAX CREDIT  
16 ALLOWED IN THIS SECTION AND SPECIFIES:

- 17           (I) THE IDENTITY OF THE TAXPAYER;  
18           (II) THE AMOUNT OF THE DONATION;  
19           (III) THE AMOUNT OF THE TAX CREDIT; AND  
20           (IV) THE NONPROFIT ORGANIZATION.

1 (c) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

2 (d) "DONATION" MEANS AN AMOUNT OF MONEY GIVEN BY A  
3 TAXPAYER TO A NONPROFIT INTERMEDIARY FOR THE PURPOSE OF PAYING  
4 FOR NONPROFIT JOBS IN A PARTICULAR NONPROFIT ORGANIZATION.

5 (e) "NONPROFIT INTERMEDIARY" MEANS A COMMUNITY CHEST,  
6 FUND, OR FOUNDATION EXEMPT FROM FEDERAL TAXATION UNDER SECTION  
7 501 (c) (3) OF THE INTERNAL REVENUE CODE OR A NONPROFIT  
8 ORGANIZATION THAT ACTS AS A FEDERATED CAMPAIGN TO COLLECT  
9 DONATIONS AND REDISTRIBUTE COLLECTED MONEYS TO OTHER NONPROFIT  
10 ORGANIZATIONS THAT VOLUNTARILY UNDERTAKE THE DUTIES AND  
11 RESPONSIBILITIES SET FORTH IN THIS SECTION.

12 (f) "NONPROFIT JOB" MEANS A JOB WITH A GROSS ANNUAL SALARY  
13 OF AT LEAST TWENTY-FOUR THOUSAND DOLLARS PER YEAR THAT WAS NOT  
14 PAID FOR BY THE NONPROFIT ORGANIZATION PRIOR TO RECEIVING A  
15 DONATION PURSUANT TO THIS SECTION AND THAT WILL BE FUNDED WITH  
16 DONATIONS AS PROVIDED IN THIS SECTION.

17 (g) "NONPROFIT ORGANIZATION" MEANS AN ORGANIZATION  
18 EXEMPT FROM FEDERAL TAXATION UNDER SECTION 501 (c) (3) OF THE  
19 INTERNAL REVENUE CODE AND INCLUDES A COLLABORATIVE OF  
20 NONPROFIT ORGANIZATIONS.

21 (h) "PERSON" SHALL HAVE THE SAME MEANING AS PROVIDED IN  
22 SECTION 39-21-101 (3).

23 (i) "TAXPAYER" MEANS ANY PERSON.

24 (2) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY  
25 1, 2011, BUT PRIOR TO JANUARY 1, 2017, AT THE DISCRETION OF A  
26 NONPROFIT INTERMEDIARY AS SPECIFIED IN SUBSECTION (3) OF THIS  
27 SECTION, THERE MAY BE ALLOWED TO ANY TAXPAYER AN ANNUAL

1 NONPROFIT JOB CREATION INCENTIVE TAX CREDIT WITH RESPECT TO THE  
2 INCOME TAXES IMPOSED BY THIS ARTICLE THAT A TAXPAYER MAY CLAIM  
3 IN AN AMOUNT DETERMINED BY THE NONPROFIT INTERMEDIARY PURSUANT  
4 TO SUBSECTION (4) OF THIS SECTION. IN NO EVENT SHALL THE NONPROFIT  
5 INTERMEDIARY ISSUE A CREDIT CERTIFICATE IN AN INCOME TAX YEAR IN  
6 WHICH THE CREDIT IS AVAILABLE WHEN THE DEPARTMENT HAS GIVEN  
7 PUBLIC NOTICE THAT THE AGGREGATE AMOUNT OF ALL CREDITS CLAIMED  
8 UNDER THIS SECTION BY ALL TAXPAYERS HAS REACHED ONE MILLION  
9 DOLLARS IN A GIVEN CALENDAR YEAR AS SPECIFIED IN SUBSECTION (8) OF  
10 THIS SECTION.

11 (3) (a) A NONPROFIT INTERMEDIARY MAY APPROVE A NONPROFIT  
12 JOB CREATION INCENTIVE TAX CREDIT ALLOWED PURSUANT TO  
13 SUBSECTION (2) OF THIS SECTION IF A DONATION IS RECEIVED BY THE  
14 NONPROFIT INTERMEDIARY FROM A TAXPAYER AND SUCH DONATION IS  
15 DESIGNATED FOR THE FUNDING OF A NONPROFIT JOB WITH A QUALIFYING  
16 NONPROFIT ORGANIZATION. IF SUCH DONATION IS RECEIVED BY THE  
17 NONPROFIT INTERMEDIARY, THE NONPROFIT INTERMEDIARY SHALL ISSUE  
18 A CREDIT CERTIFICATE TO THE TAXPAYER.

19 (b) (I) THE NONPROFIT INTERMEDIARY SHALL REVIEW ALL  
20 APPLICATIONS IT RECEIVES FROM NONPROFIT ORGANIZATIONS SEEKING TO  
21 RECEIVE DONATIONS FOR THE PURPOSE OF JOB CREATION. A NONPROFIT  
22 ORGANIZATION SHALL SEEK TO CREATE AT LEAST ONE NONPROFIT JOB TO  
23 QUALIFY FOR RECEIVING DONATIONS. A COLLABORATIVE OF NONPROFIT  
24 ORGANIZATIONS SHALL SEEK TO CREATE A TOTAL OF AT LEAST FIVE  
25 NONPROFIT JOBS TO QUALIFY FOR RECEIVING DONATIONS; EXCEPT THAT  
26 EACH PARTICIPATING NONPROFIT ORGANIZATION MAY SEEK TO CREATE  
27 LESS THAN ONE FULL-TIME EQUIVALENT NONPROFIT JOB. THE

1 APPLICATION SHALL IDENTIFY:

2 (A) THE NUMBER OF NONPROFIT JOBS THAT THE NONPROFIT  
3 ORGANIZATION WISHES TO CREATE; AND

4 (B) THE GROSS ANNUAL SALARY FOR EACH NONPROFIT JOB.

5 (II) WHEN THE NONPROFIT INTERMEDIARY HAS MADE A  
6 DETERMINATION THAT THE APPLICANT HAS MET THE REQUIREMENTS OF  
7 THIS SECTION, THE NONPROFIT INTERMEDIARY SHALL NOTIFY THE  
8 NONPROFIT ORGANIZATION OF ITS DECISION AND SEND WRITTEN NOTICE OF  
9 ANY NONPROFIT ORGANIZATION'S QUALIFICATION TO THE DEPARTMENT.  
10 IF THE NONPROFIT INTERMEDIARY APPROVES THE APPLICATION, THE  
11 NONPROFIT ORGANIZATION MAY COMMENCE SOLICITING DONATIONS FROM  
12 TAXPAYERS FOR DEPOSIT WITH THE NONPROFIT INTERMEDIARY.

13 (c) (I) FOR THOSE APPLICATIONS APPROVED BY THE NONPROFIT  
14 INTERMEDIARY, THE NONPROFIT INTERMEDIARY SHALL RECEIVE  
15 DONATIONS AND SHALL HOLD SUCH DONATIONS FOR:

16 (A) DISTRIBUTION TO THE QUALIFIED NONPROFIT ORGANIZATION  
17 WHEN THE MONEYS RECEIVED FROM DONATIONS ARE SUFFICIENT TO PAY  
18 FOR THE NONPROFIT JOB; OR

19 (B) DISTRIBUTION TO THE QUALIFIED NONPROFIT ORGANIZATION  
20 WHEN THE MONEYS RECEIVED FROM DONATIONS AND OTHER MATCHING  
21 MONEYS RAISED BY THE NONPROFIT ORGANIZATION ARE SUFFICIENT TO  
22 PAY FOR THE NONPROFIT JOB.

23 (II) ALL DISTRIBUTED DONATIONS SHALL BE USED BY THE  
24 NONPROFIT ORGANIZATION TO PAY FOR THE NONPROFIT JOB OR JOBS.

25 (III) IF THE DONATIONS ARE NOT SUFFICIENT TO PAY FOR A  
26 NONPROFIT JOB WITHIN A PERIOD OF ONE YEAR AFTER RECEIPT OF THE  
27 FIRST DONATION AND IF THE NONPROFIT ORGANIZATION DOES NOT RAISE

1 SUFFICIENT MATCHING MONEYS TO PAY FOR THE NONPROFIT JOB WITHIN  
2 THAT SAME PERIOD, THE NONPROFIT INTERMEDIARY MAY GRANT THE  
3 DONATIONS TO ANOTHER NONPROFIT ORGANIZATION, GIVING PREFERENCE  
4 TO NONPROFIT ORGANIZATIONS THAT WILL USE THE DONATION IN WHOLE  
5 OR IN PART TO PAY THE SALARY OF A NONPROFIT JOB.

6 (IV) THE NONPROFIT INTERMEDIARY MAY USE UP TO FIVE PERCENT  
7 OF DONATIONS TO PAY FOR THE NONPROFIT INTERMEDIARY'S  
8 ADMINISTRATIVE COSTS RELATED TO THE CREDIT SPECIFIED IN THIS  
9 SECTION.

10 (d) IF THE NONPROFIT INTERMEDIARY ISSUES A CREDIT  
11 CERTIFICATE AS SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (3), THE  
12 NONPROFIT INTERMEDIARY SHALL PROVIDE ELECTRONIC COPIES OF THE  
13 CREDIT CERTIFICATE TO THE DEPARTMENT AND THE NONPROFIT  
14 ORGANIZATION WITHIN FIVE BUSINESS DAYS AFTER RECEIPT OF THE  
15 DONATION.

16 (4) THE CREDIT ALLOWED IN THIS SECTION SHALL BE CALCULATED  
17 BY A NONPROFIT INTERMEDIARY AS TWENTY-FIVE PERCENT OF THE TOTAL  
18 DONATION MADE BY THE TAXPAYER TO THE NONPROFIT INTERMEDIARY.

19 (5) IF THE AMOUNT OF THE CREDIT ALLOWED IN THIS SECTION  
20 EXCEEDS THE AMOUNT OF INCOME TAXES OTHERWISE DUE ON THE  
21 TAXPAYER'S INCOME IN THE INCOME TAX YEAR FOR WHICH THE CREDIT IS  
22 BEING CLAIMED, THE AMOUNT OF THE CREDIT NOT USED AS AN OFFSET  
23 AGAINST INCOME TAXES IN THE CURRENT INCOME TAX YEAR MAY BE  
24 CARRIED FORWARD AND USED AS A CREDIT AGAINST SUBSEQUENT YEARS'  
25 INCOME TAX LIABILITY FOR A PERIOD NOT TO EXCEED SEVEN YEARS AND  
26 SHALL BE APPLIED FIRST TO THE EARLIEST INCOME TAX YEARS POSSIBLE.  
27 ANY CREDIT REMAINING AFTER SAID PERIOD SHALL NOT BE REFUNDED OR

1 CREDITED TO THE TAXPAYER.

2 (6) IF A TAXPAYER RECEIVING A CREDIT ALLOWED IN THIS SECTION  
3 IS A PARTNERSHIP, LIMITED LIABILITY COMPANY, S CORPORATION, OR  
4 SIMILAR PASS-THROUGH ENTITY, THE TAXPAYER MAY ALLOCATE THE  
5 CREDIT AMONG ITS PARTNERS, SHAREHOLDERS, MEMBERS, OR OTHER  
6 CONSTITUENT TAXPAYERS IN ANY MANNER AGREED TO BY SUCH  
7 PARTNERS, SHAREHOLDERS, MEMBERS, OR OTHER CONSTITUENT  
8 TAXPAYERS. THE TAXPAYER SHALL CERTIFY TO THE NONPROFIT  
9 INTERMEDIARY AND THE DEPARTMENT THE AMOUNT OF THE CREDIT  
10 ALLOCATED TO EACH PARTNER, SHAREHOLDER, MEMBER, OR OTHER  
11 CONSTITUENT TAXPAYER, AND THE NONPROFIT INTERMEDIARY SHALL  
12 ISSUE CREDIT CERTIFICATES IN THE APPROPRIATE AMOUNTS TO EACH  
13 PARTNER, SHAREHOLDER, MEMBER, OR OTHER CONSTITUENT TAXPAYER.  
14 EACH PARTNER, SHAREHOLDER, MEMBER, OR OTHER CONSTITUENT  
15 TAXPAYER SHALL BE ALLOWED TO CLAIM SUCH AMOUNT SUBJECT TO ANY  
16 RESTRICTIONS SET FORTH IN THIS SECTION.

17 (7) NO LATER THAN SEPTEMBER 1, 2011, AND NO LATER THAN  
18 SEPTEMBER 1 OF EACH YEAR THEREAFTER THROUGH SEPTEMBER 1, 2017,  
19 IN ADDITION TO THE ELECTRONIC COPY OF THE CREDIT CERTIFICATE  
20 PROVIDED PURSUANT TO PARAGRAPH (d) OF SUBSECTION (3) OF THIS  
21 SECTION, A NONPROFIT INTERMEDIARY SHALL PROVIDE THE DEPARTMENT  
22 WITH AN ELECTRONIC REPORT OF THE TAXPAYERS RECEIVING A CREDIT  
23 ALLOWED IN THIS SECTION FOR THE PRECEDING CALENDAR YEAR, OR ANY  
24 FISCAL YEAR ENDING IN THE PRECEDING CALENDAR YEAR, THAT INCLUDES  
25 THE FOLLOWING INFORMATION:

26 (a) THE TAXPAYER'S NAME;

27 (b) THE TAXPAYER'S COLORADO ACCOUNT NUMBER AND FEDERAL

1 EMPLOYER IDENTIFICATION NUMBER;

2 (c) THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THIS  
3 SECTION; AND

4 (d) ANY ASSOCIATED TAXPAYER'S NAMES, COLORADO ACCOUNT  
5 NUMBERS, AND FEDERAL EMPLOYER IDENTIFICATION NUMBERS OR SOCIAL  
6 SECURITY NUMBERS, IF THE CREDIT ALLOWED IN THIS SECTION IS  
7 ALLOCATED FROM A PASS-THROUGH ENTITY PURSUANT TO SUBSECTION (6)  
8 OF THIS SECTION.

9 (8) WHEN THE DEPARTMENT HAS DETERMINED THAT THE  
10 AGGREGATE AMOUNT OF ALL CREDITS CLAIMED BY TAXPAYERS UNDER  
11 THIS SECTION HAS REACHED ONE MILLION DOLLARS IN ANY GIVEN  
12 CALENDAR YEAR, THE DEPARTMENT SHALL GIVE NOTICE TO THE PUBLIC  
13 AND TO ANY NONPROFIT INTERMEDIARIES THAT HAVE FILED CREDIT  
14 CERTIFICATES WITH THE DEPARTMENT THAT FURTHER CREDITS SHALL NOT  
15 BE ALLOWED FOR THE REMAINDER OF THAT CALENDAR YEAR. IN  
16 CALCULATING THE AGGREGATE AMOUNT, THE DEPARTMENT SHALL USE  
17 THE FULL AMOUNT STATED ON EACH CREDIT CERTIFICATE,  
18 NOTWITHSTANDING ANY CREDIT CARRIED FORWARD BY A TAXPAYER IN  
19 SUBSEQUENT YEARS PURSUANT TO SUBSECTION (5) OF THIS SECTION.

20 (9) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY  
21 PROMULGATE RULES AS MAY BE NECESSARY TO ADMINISTER AND ENFORCE  
22 ANY PROVISION OF THIS SECTION. THE RULES SHALL BE PROMULGATED IN  
23 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.

24 (10) ANY TAXPAYER WHO OFFSETS A TAX DEFICIENCY WITH A  
25 CREDIT ALLOWED IN THIS SECTION THAT IS DISALLOWED PURSUANT TO  
26 THIS SECTION SHALL BE LIABLE FOR SUCH TAX DEFICIENCY, INTEREST, AND  
27 PENALTIES AS MAY BE SPECIFIED IN THIS ARTICLE OR OTHERWISE



1 PROVIDED BY LAW.

2 (11) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2028.

3 **SECTION 2. Act subject to petition - effective date.** This act  
4 shall take effect at 12:01 a.m. on the day following the expiration of the  
5 ninety-day period after final adjournment of the general assembly (August  
6 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a  
7 referendum petition is filed pursuant to section 1 (3) of article V of the  
8 state constitution against this act or an item, section, or part of this act  
9 within such period, then the act, item, section, or part shall not take effect  
10 unless approved by the people at the general election to be held in  
11 November 2010 and shall take effect on the date of the official  
12 declaration of the vote thereon by the governor.