ENTERPRISE ZONE CONTRIBUTION CREDIT

EVALUATION SUMMARY | JULY 2021 | 2021-TE16

TAX TYPE	Income tax credit	REVENUE (TAX YEAR 2018)	$10.5 million
YEAR ENACTED	1989	NUMBER OF TAXPAYERS	11,500
REPEAL/EXPIRATION DATE	None		

KEY CONCLUSION: The exemption provides a moderate incentive that appears to have encouraged private contributions to qualified projects that align with enterprise zone economic development goals.

WHAT DOES THE TAX EXPENDITURE DO?

The Enterprise Zone Contribution Tax Credit provides an income tax credit for monetary and in-kind contributions to qualified enterprise zone contribution projects that support the economic development plan for the enterprise zone. The credit is equivalent to 25 percent of the contribution amount, with a maximum credit of $100,000. In-kind contributions are limited to 50 percent of the total credit claimed.

WHAT IS THE PURPOSE OF THE TAX EXPENDITURE?

Statute and the enacting legislation do not state the exemption's purpose; therefore, we could not definitively determine the General Assembly's original intent. Based on our review of legislative history and the current operation of the expenditure, our evaluation considered a potential purpose: to incentivize taxpayers to contribute financial or in-kind support to non-profit or government funded projects that serve the economic development goals of the enterprise zone.

WHAT POLICY CONSIDERATIONS DID THE EVALUATION IDENTIFY?

The General Assembly may want to consider:

- Establishing a statutory purpose and performance measures for the credit.
- Clarifying the eligibility requirements for the credit.
- Creating a separate statewide tax credit for contributions to organizations serving the homeless population.
- Clarifying the limitation on in-kind contributions.

FOR FURTHER INFORMATION ABOUT THIS REPORT, PLEASE CONTACT
THE OFFICE OF THE STATE AUDITOR | 303.869.2800 | WWW.COLORADO.GOV/AUDITOR

ENTERPRISE ZONE CONTRIBUTION CREDIT

EVALUATION RESULTS

WHAT IS THE TAX EXPENDITURE?

In 1986, the General Assembly passed the Urban and Rural Enterprise Zone Act [Title 39, Article 30, C.R.S.], creating tax credits to provide incentives for businesses to locate and expand their operations in economically distressed parts of the state, known as enterprise zones, with the goal of boosting employment and economic conditions within the zones. The Economic Development Commission (EDC) administers the program and approves the boundaries for each of the 16 enterprise zones in the state. Each zone has an enterprise zone administrator, who is a person or an agency selected by the local government to implement the zones' economic development plans, advance economic development goals for the zone, promote the zone to businesses, and assist businesses in applying for the tax expenditures, along with approving them for the tax expenditures. In 1989, the General Assembly added the Enterprise Zone Contribution Credit (Contribution Credit) to provide a tax credit for taxpayer contributions to qualifying projects run by enterprise zone administrators. Under current statute [Section 39-30-103.5(3.5), C.R.S.], nonprofit organizations and government-funded programs that further enterprise zones' economic development goals are also eligible to receive contributions.

Statute [Section 24-46-104, C.R.S.] authorizes the EDC to create policies for the Contribution Credit projects. Current policies require organizations to establish goals that align with zone administrators' local economic development plans. According to the EDC, the Governor's Office of Economic Development & International Trade (OEDIT), and the zone administrators, the intention of these policies is to ensure that the contribution projects are targeted towards economic development, qualified contribution projects are not just general nonprofit or government-funded programs, and there is consistency among enterprise zones.

Under EDC policies, in order for an organization's project to be approved as a qualified contribution project that can issue tax credits, it must complete a three-step application process. The organization must first submit an application to the enterprise zone administrator showing the project budget, the estimated amount of contributions the project will receive, and that the services that will be provided support the economic development goals of the enterprise zone. Once approved, the project goes through a stringent peer review process in which all of the enterprise zone administrators review the application, discuss the project and its alignment with the enterprise zone goals, and then vote on approval. If a project receives unanimous approval through the peer review process, OEDIT then presents the project to the EDC for its approval.

Statute requires zone administrators to annually report to OEDIT a list of all qualified contribution projects that taxpayers may contribute to in order to be eligible for a tax credit. Taxpayers may contribute either monetary or in-kind contributions; in-kind contributions are defined in Department of Revenue (Department) regulations [Section 1 CCR 201-13], and include professional services, stocks, property, equipment, or other tangible items. Once a taxpayer makes a contribution to a qualified project, either the project or the enterprise zone administrator enters the contribution and taxpayer information into OEDIT's Salesforce system, which estimates the amount of the credit. The enterprise zone administrator then reviews the supporting documentation, approves the credit amount, and issues the taxpayer a certificate showing the amount certified. Currently, EDC policies limit each project to a maximum of $750,000 in credits per year, regardless of the amount of contributions they receive, and to a maximum of 5 years.

Taxpayers can claim an income tax credit for 25 percent of the value of their monetary contributions throughout the year, up to a maximum of $100,000. For in-kind contributions, statute states that "in-kind contributions shall not exceed fifty percent of the total credit claimed" [Section 39-30-103.5(1)(b), C.R.S.]. Department regulations [Section 1 CCR 201-13] and the Enterprise Zone Tax Credit Guide clarify this to mean that credits for in-kind contributions are limited to 12.5 percent of the total value of the contribution (50 percent of the 25 percent credit available for monetary contributions), up to a maximum of $50,000. The credit is not refundable, but can be carried forward for up to 5 years if the amount of the credit exceeds the taxpayer's income tax liability in any single year. Taxpayers claim the Contribution Credit by completing the Enterprise Zone Credit and Carryforward Schedule (Form DR 1366) and filing that form with their Colorado income tax returns, where they also report the credit amount claimed. Taxpayers must include the certificate from the zone administrator with their tax returns.

The Contribution Credit was enacted in 1989 by House Bill 89-1349 and has undergone several changes since that time, as provided in EXHIBIT 1.

EXHIBIT 1. LEGISLATIVE HISTORY OF THE CONTRIBUTION CREDIT	
Bill	Description of Modification
Senate Bill 90-161 & Senate Bill 94-064	Expanded the tax credit to include contributions that were for the purpose of promoting child care services and infrastructure, or for contributions to specific homelessness assistance services, such as temporary housing and job placement or counseling services. While child care contributions were removed as eligible contributions in 1998 and replaced with a statewide tax credit, the contribution to homelessness assistance organizations has remained part of the Contribution Credit Program.
Senate Bill 96-193	Reduced the credit from 50 percent of the value of monetary contributions to the current 25 percent. The changes also required that contribution projects be certified by the EDC and provide annual reports on contributions, including their amount, source, and purpose in relation to the goals of the enterprise zone. Finally, the bill prohibited tax credits for contributions that were a "direct-benefit" to the contributor (i.e., a contributor cannot receive a tax credit if they receive a benefit from the contribution, such as a meal or free advertising).
House Bill 02-1161	Added that contributions to nonprofit and government-funded organizations in enterprise zones are qualified to receive the credit. Previously, only contributions to enterprise zone administrators qualified for the credit.

SOURCE: Office of the State Auditor analysis of the legislative history of the Enterprise Zone Contribution Credit.

WHO ARE THE INTENDED BENEFICIARIES OF THE TAX EXPENDITURE?

Statute does not explicitly state the intended beneficiaries of the tax credit. However, based on its operation, we inferred that the intended direct beneficiaries are taxpayers contributing to qualified projects and claiming the credit, as well as the qualified contribution projects that receive contributions.

Additionally, because the contribution projects serve enterprise zones and contribute to the economic development goals of the zones, we inferred that the indirect beneficiaries include the enterprise zone itself and the greater community that is benefitting from the overall investment in the local economy, services, and infrastructure. For example, a contribution project for a rural hospital allows the community to access healthcare services, which also benefits businesses that are located, or looking to locate, in enterprise zones by keeping the local workforce healthy and stable since workers can access the services they need in their community. EXHIBIT 2 shows the number of contribution projects in each of the State's 16 enterprise zones that were active between Calendar Years 2018 and 2020.

EXHIBIT 2. ACTIVE CONTRIBUTION PROJECTS BY ENTERPRISE ZONE CALENDAR YEAR 2018 THROUGH 2020

Enterprise Zone	Number of Active Projects
Denver Metro	101
Pikes Peak[1]	73
Central & Southern[2]	55
Region 10[3]	46
North-East-Central[4]	42
Southwest[5]	38
Mesa County	37
Northwest[6]	30
Pueblo	29
Larimer County	27
Southeast Central[7]	24
Weld County	19
Jefferson County	15
Adams County	11
North Metro[8]	9
South Metro[9]	5
TOTAL	561

SOURCE: Office of the State Auditor analysis of Governor's Office of Economic Development and International Trade contribution credit data for projects active between 2018 and 2020, as of February 2021.

[1] Includes part of El Paso and Teller counties.

[2] Includes the entirety of Alamosa, Chaffee, Conejos, Costilla, Custer, Fremont, Lake, Mineral, Park, Rio Grande, and Saguache counties.

[3] Includes the entirety of Delta, Gunnison, Hinsdale, Montrose, and Ouray counties and part of San Miguel county.

[4] Includes the entirety of Cheyenne, Kit Carson, Lincoln, Logan, Morgan, Phillips, Sedgwick, Washington, and Yuma counties and part of Elbert county.

[5] Includes the entirety of Dolores, Montezuma, and San Juan counties and part of La Plata and Archuleta counties.

[6] Includes the entirety of Clear Creek, Grand, Jackson, Moffat, Routt, and Rio Blanco counties and part of Garfield and Gilpin counties.

[7] Includes the entirety of Baca, Bent, Crowley, Huerfano, Kiowa, Las Animas, Otero, and Prowers counties.

[8] Includes part of Boulder and Broomfield counties.

[9] Includes part of Arapahoe and Douglas counties.

WHAT IS THE PURPOSE OF THE TAX EXPENDITURE?

Statute and the enacting legislation for the Contribution Credit do not state its purpose; therefore, we could not definitively determine the General Assembly's original intent. However, based on the credit's operation, interviews with OEDIT staff and enterprise zone administrators, EDC policies, and the overall purpose of the Enterprise Zone Act, we considered a potential purpose: to incentivize taxpayers to contribute financial or in-kind support to approved projects that serve the economic development goals of the enterprise zone.

IS THE TAX EXPENDITURE MEETING ITS PURPOSE AND WHAT PERFORMANCE MEASURES WERE USED TO MAKE THIS DETERMINATION?

We determined that the Contribution Credit is likely meeting the potential purpose we considered. Specifically, the credit has provided a moderate incentive for taxpayers to donate to nonprofit and government-funded economic development projects in enterprise zones.

Statute does not provide quantifiable performance measures for this credit. Therefore, we created and applied the following performance measures to determine the extent to which the credit is meeting its potential purpose.

PERFORMANCE MEASURE #1: *To what extent has the tax credit incentivized taxpayers to contribute to enterprise zone contribution projects?*

RESULT: Overall, we found that the Contribution Credit offers taxpayers a moderate incentive either to contribute to an organization, or to increase their contribution amount. Based on OEDIT data, between Calendar Years 2018 and 2020, there were 561 contribution projects that received contributions from about 34,000 taxpayers, totaling more than $177 million dollars. EXHIBIT 3 shows the amount of contributions made between 2018 and 2020 in each enterprise zone.

EXHIBIT 3. ACTIVE CONTRIBUTION PROJECTS BY ENTERPRISE ZONE CALENDAR YEAR 2018 THROUGH 2020	
Enterprise Zone	Amount of Contributions
Denver Metro	$46,759,900
Pikes Peak[1]	$34,392,300
Mesa County	$16,347,000
Jefferson County	$12,647,100
Larimer County	$11,004,700
Northwest[2]	$8,069,900
Southwest[3]	$7,722,000
Central & Southern[4]	$7,523,900
Region 10[5]	$7,513,200
Weld County	$5,463,700
Adams County	$4,936,300
Pueblo	$4,908,800
South Metro[6]	$4,422,300
North Metro[7]	$2,397,100
Southeast Central[8]	$2,062,300
North-East-Central[9]	$974,900
TOTAL	$ 177,145,400

SOURCE: Office of the State Auditor analysis of Governor's Office of Economic Development and International Trade contribution credit data as of February 2021.

[1]Includes part of El Paso and Teller counties.

[2] Includes the entirety of Alamosa, Chaffee, Conejos, Costilla, Custer, Fremont, Lake, Mineral, Park, Rio Grande, and Saguache counties.

[3] Includes the entirety of Delta, Gunnison, Hinsdale, Montrose, and Ouray counties and part of San Miguel county.

[4] Includes the entirety of Cheyenne, Kit Carson, Lincoln, Logan, Morgan, Phillips, Sedgwick, Washington, and Yuma counties and part of Elbert county.

[5] Includes the entirety of Dolores, Montezuma, and San Juan counties and part of La Plata and Archuleta counties.

[6] Includes part of Boulder and Broomfield counties.

[7] Includes part of Arapahoe and Douglas counties.

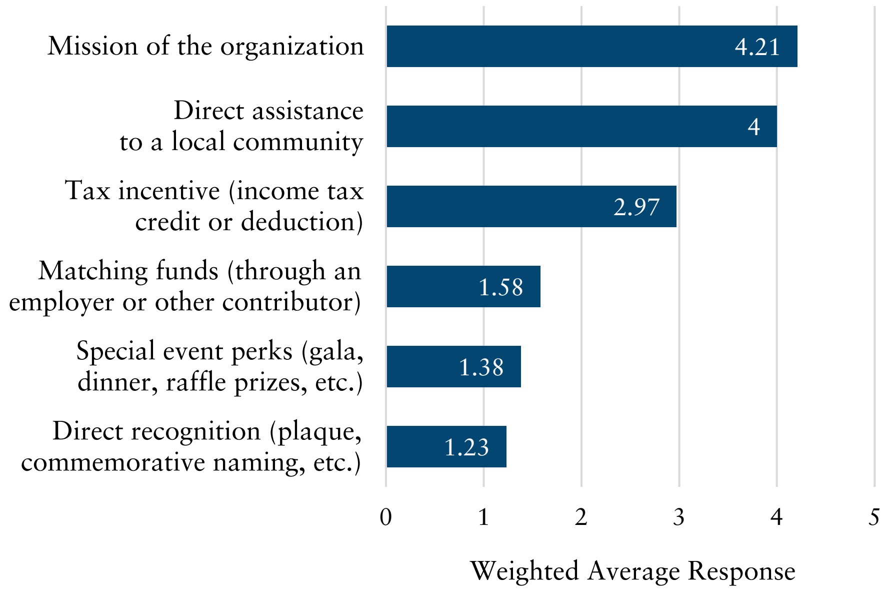
[8] Includes the entirety of Clear Creek, Grand, Jackson, Moffat, Routt, and Rio Blanco counties and part of Garfield and Gilpin counties.

[9] Includes the entirety of Baca, Bent, Crowley, Huerfano, Kiowa, Las Animas, Otero, and Prowers counties.

Although taxpayers who claimed the credit made significant contributions to qualifying projects, it is likely that a portion of the contributions would have been made regardless of the credit. To assess the impact that the tax credit had on taxpayers' decisions to contribute to the enterprise zone contribution projects, we surveyed over 16,000 taxpayers who made an eligible contribution, and received responses from 2,300 taxpayers, for a 14 percent response rate. We also surveyed approximately 450 project contacts, representing executive directors, board members, development directors, financial directors, and other staff and received responses from 165 project contacts, a 37 percent response rate.

Our survey results indicate that the credit is likely a significant factor for taxpayers considering whether to contribute to a qualifying project, but that the mission of the organization and an interest in helping the local community are typically more important. We asked taxpayers to rank, on a scale from 1 to 5, the extent to which various factors incentivized their charitable contributions, with 1 being "not at all, is not an incentive for the contribution," and 5 being "completely, is the only reason for the contribution." EXHIBIT 4 shows the average ranking taxpayers assigned to factors such as tax incentives, the mission of the organization, or receiving recognition for the donation. Overall, taxpayers who received the credit ranked the "Mission of the Organization" and "Direct Assistance to the Local Community" as the most important factors for charitable contributions. Tax incentives, such as the credit, were ranked as a moderate factor.

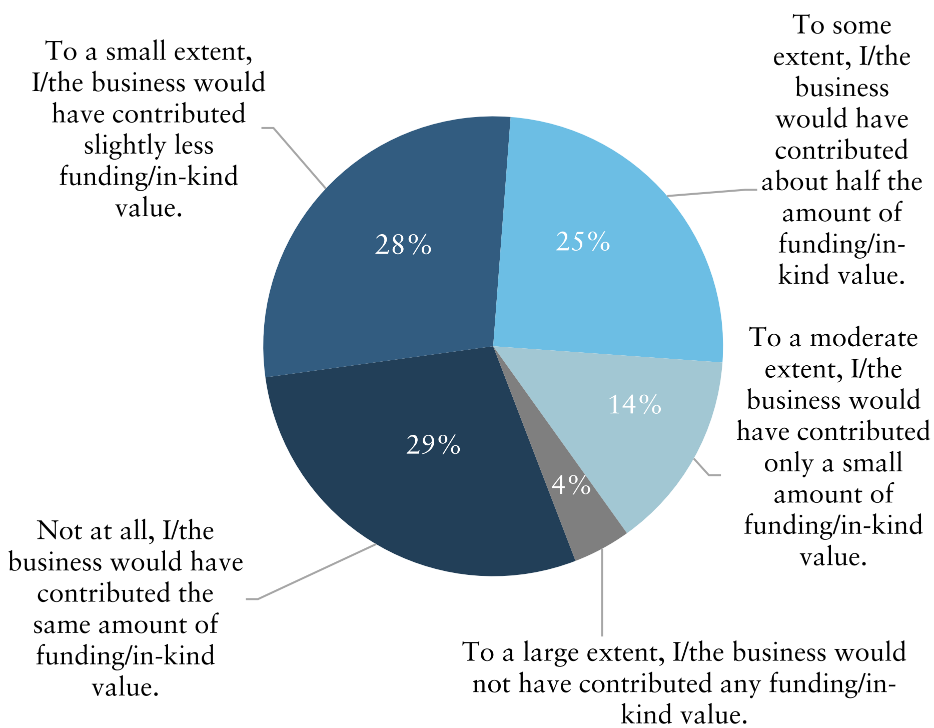
EXHIBIT 4. EXTENT TO WHICH DIFFERENT FACTORS INCENTIVIZE CHARITABLE CONTRIBUTIONS SURVEY OF ENTERPRISE ZONE CONTRIBUTION PROJECT CONTRIBUTORS



SOURCE: Contributor responses to Office of the State Auditor survey for individuals, corporations, partnerships, and estates and trusts that, according to Governor's Office of Economic Development and International Trade data, had contributed to a qualified enterprise zone contribution project between 2018 and 2020.

In addition, our survey results indicate that although most taxpayers would have made a contribution regardless of the credit, the credit likely encourages some taxpayers to contribute more than they would if no credit was available. We asked taxpayers to rank, on a scale from 1 to 5, the extent to which their contribution amount would have differed if they did not receive a tax credit, with 1 being "not at all, would have contributed the same amount of funding or in-kind value," and 5 being "to a large extent, would not have contributed any funding or in-kind value." EXHIBIT 5 shows the extent to which survey respondents indicated that their contributions would have been affected without a tax credit. As shown, the credit had only a small impact or no impact for 57 percent of taxpayers. However, 43 percent of respondents indicated that without the credit, their contributions would have been moderately impacted and they would have contributed half of the amount or less, with 4 percent indicating that they would not have made any contribution at all without the credit.

EXHIBIT 5. EXTENT TO WHICH THE CONTRIBUTION TAX CREDIT INCENTIVIZED CHARITABLE CONTRIBUTIONS



SOURCE: Contributor responses to Office of the State Auditor survey for individuals, corporations, partnerships, and estates and trusts that, according to Governor's Office of Economic Development and International Trade data, had contributed to a qualified enterprise zone contribution project between 2018 and 2020.

Similarly, survey respondents commented that the tax credit did not fully incentivize whether or not a contribution occurred, but rather helped increase the amount of the contributions. Some taxpayers responded that they increased the value of their contribution by the amount of the expected tax credit, while others responded that they contribute more to qualified enterprise zone projects than they contribute to other organizations that are not eligible for the tax credit. In addition, about half of the contribution project contacts that responded to our survey also have non-enterprise zone projects and could compare the level of contributions they receive for projects that qualify for the credit with those that do not. About half responded that the donations to enterprise zone projects that qualify for the Contribution Credit are slightly more to significantly more than donations to their standard projects and operations, but 11 percent said the donation amounts were generally the same, and 15 percent were unsure of any differences. Some contribution project contacts stated that the credit helps increase donations because the projects are specific to furthering economic development goals of the zone and may be more appealing to contributors because they offer an opportunity to contribute to a targeted project, such as funding a capital project for the community. The credit may also influence contributors to contribute more because, under EDC program rules, organizations can set a minimum donation amount to qualify for the credit, which they can use to incentivize contributors to increase their donation.

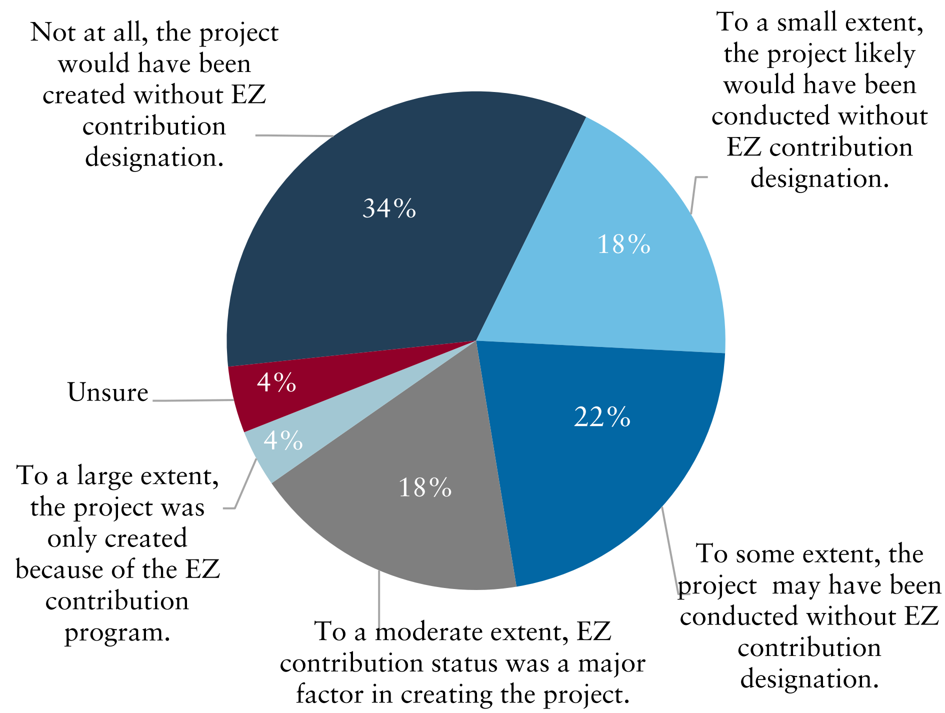
PERFORMANCE MEASURE #2: *To what extent has the tax credit encouraged organizations that serve local economic development goals to establish projects within enterprise zones?*

RESULT: Overall, we found that the tax credit does not necessarily drive organizations to locate within an enterprise zone, but it may have an impact on the type and scale of programs and services that an organization chooses to provide. To determine the impact that the Contribution Credit had on organizations' decisions to provide a service in the enterprise zone that aligned with the zone's economic development goals, we interviewed 16 of the 19 zone administrators and received surveys from approximately 165 project contacts.

According to stakeholders, organizations prioritize several factors other than the Contribution Credit when selecting a location, including the needs of the community, available real estate and workforce, and proximity to additional resources. Additionally, because the credit dates back to 1989, many of the qualified organizations have had an approved project for several years and are not necessarily new organizations locating specifically to provide economic development services in an enterprise zone. The majority of contribution project contacts that responded to the survey were either notified by an enterprise zone administrator that they may qualify as a contribution project, or through another local economic development organization and were already located within zone boundaries. Additionally, 52 percent of survey respondents noted that their organization has other projects or operations that are not designated as enterprise zone contribution projects and are providing services that are not directly related to economic development goals, such as general organization operations, education services, food security, or health care and mental health services.

We also surveyed contribution project contacts to determine the influence the Contribution Credit had on the organizations' decisions to create projects that aligned with the enterprise zones' economic development goals. Although it appears that organizations would have gone forward with most of the qualifying projects even in the absence of the credit, the credit appears to have had a significant impact in some cases. EXHIBIT 6 shows the extent to which the enterprise zone tax credit contributed to the organizations' decision to create a project in an enterprise zone. For about half of the projects (52 percent), respondents stated that the credit program had little or no influence on their decision to create a project in the enterprise zone. However, 22 percent of the respondents stated that their projects were created either only because of the enterprise zone program, or the credit was a major factor in the decision to create the project. According to OEDIT, because contribution projects are approved from existing organizations within or near zone boundaries, the Contribution Credit acts as a way to support these existing organizations to sustain or expand their services in economically distressed areas.

EXHIBIT 6. EXTENT TO WHICH THE ENTERPRISE ZONE TAX CREDIT PROGRAM INFLUENCED ORGANIZATION DECISIONS TO CREATE A PROJECT IN THE ENTERPRISE ZONE



SOURCE: Contribution project responses to Office of the State Auditor survey to contribution project representatives.

Additionally, while most survey respondents said that operations or specific projects would have continued without the credit, 52 percent indicated that without the tax credit, the project would be completed at a slower rate or on a smaller scale. This is consistent with taxpayer responses that, in general, donations would continue, however they would likely be reduced. The importance of the credit likely also depends on the availability of other sources of project funding, such as grants from government organizations or foundations. For the 162 projects that responded to our survey, 46 percent responded that less than a quarter of their project funding was generated through contributions that were eligible for the tax credit, while 24 percent responded that between a quarter to half of their project funding came from contributions eligible for the tax credit. Many projects responded that the tax credit-eligible contributions helped bridge the gap in funding for operations or special projects that grants or other donations could not cover.

WHAT ARE THE ECONOMIC COSTS AND BENEFITS OF THE TAX EXPENDITURE?

The Department reported that the Contribution Credit had a state revenue impact of $9.4 million in Tax Year 2016 and $10.5 million in Tax Year 2018, with a corresponding tax benefit for taxpayers who claimed the credits. Because credits can be carried forward for up to 5 years, there is not a direct relationship of credits certified by zone administrators to credits claimed on an annual basis, and it is likely that credits certified are claimed across multiple years. For example, for Calendar Year 2018, taxpayers were certified for $15.5 million in credits, but only claimed $10.5 million, meaning that taxpayers certified for credits in 2018 have at least $5 million in credits that they could claim in future years. For this reason, the credit's revenue impact could fluctuate based on the amount of credits taxpayers claim in future years. However, due to a lack of data, we could not determine how much of the credits claimed were carried forward from prior years or the amount of credits certified, but not yet claimed by taxpayers.

Additionally, the revenue impact and benefit provided to taxpayers for Tax Year 2020 is likely to be less than previous years due to the COVID-19 pandemic and resulting economic downturn. Specifically, OEDIT data show that estimated credit amounts for contributions went from $15.3 million in Calendar Year 2019 to $9.2 million in 2020, a 40 percent decrease. Because taxpayer filings for Tax Year 2020 were not complete at the time of our analysis, we could not quantify the impact that the decrease in credit certifications will have on the amount of credits claimed.

In addition to the Contribution Credit's direct financial benefits to taxpayers making eligible contributions, to the extent that the credit encourages increased contributions, it also supports projects that contribute to local economic development. EXHIBIT 7 provides information on the types of projects receiving qualifying contributions and the amount contributed during Calendar Years 2018 through 2020.

EXHIBIT 7. CONTRIBUTION PROJECTS BY TYPE
CALENDAR YEARS 2018 THROUGH 2020

Type of Project	Number of Projects	Amount of Contributions
Tourist/Visitor Attraction[1]	98	$37,854,900
Community Facility	97	$17,060,600
Job Training & Referral	78	$18,794,000
Economic Development Organization	65	$11,625,600
Job Training & Housing	62	$26,249,900
Health Care	58	$23,081,500
Homeless Support	36	$23,458,400
Business Assistance	23	$1,754,900
Infrastructure	23	$9,414,000
Workforce Housing	16	$3,509,000
Other[2]	9	$4,342,600
TOTAL	565	$177,145,400

SOURCE: Office of the State Auditor analysis of Governor's Office of Economic Development and International Trade contribution credit data as of February 2021.
[1]Enterprise zone administrators and OEDIT consider healthcare organizations that are specialty treatment organizations with long term treatment as tourist/visitor attractions because the treatment centers bring in residents from outside the region or state.
[2] 'Other' includes transportation services and food banks.

Survey respondents also provided anecdotal information on the impact the Contribution Credit program has had on their local communities. Projects cited increased tourism, an ability to expand their services to lower income populations, funding health care services in underserved areas or providing specialty health care, building infrastructure and affordable housing that makes communities livable, and creating education programs to address regional workforce shortages.

Additionally, because in practice these contributions fund nonprofits and government organizations that are working on economic development goals that may overlap with other state programs, including job training, housing, tourism, and infrastructure, there may be less administrative burden on the State to provide these services. While we lacked data to reliably estimate this impact, the tax credit may decrease the need for, or may supplement, government services. Several enterprise zone administrators noted that the Contribution Credit Program creates a public-private partnership for programs, meaning that the nonprofit and government-funded programs are able to draw in funding from the private sector rather than relying only on state or federal funding for these programs. One benefit projects cited is that these private contributions also help diversify their funding streams, which makes their funding, and therefore budgets for services, more stable.

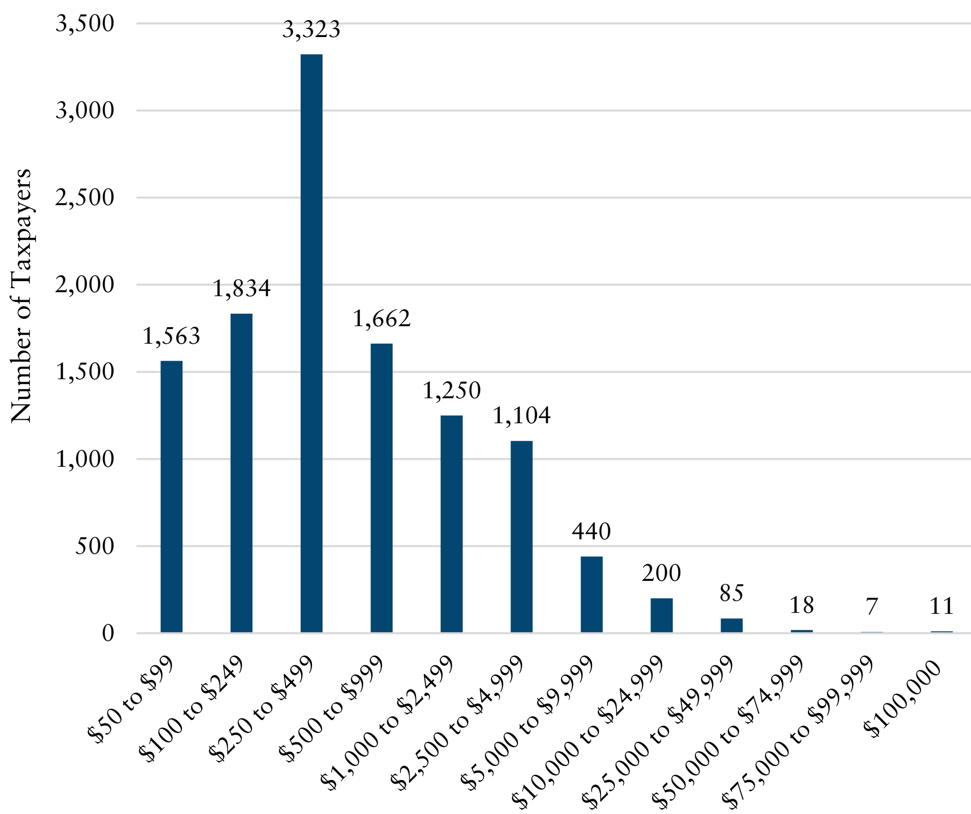
Finally, contribution projects are operated locally within enterprise zones, so the contributions go directly to funding the operations and services of local government-funded or nonprofit economic development programs. This works to circulate money locally due to employment at contribution project organizations and increased assistance to the local community. Further, survey responses from contributors cited being able to fund local programs in their community as one of the major factors for charitable contributions.

WHAT IMPACT WOULD ELIMINATING THE TAX EXPENDITURE HAVE ON BENEFICIARIES?

If the Contribution Credit was eliminated, taxpayers who currently claim the credit would see their tax liability increase, to the extent that they continue to make contributions. Based on Department data, in Calendar Year 2016, about 12,200 taxpayers claimed the credit and in Calendar Year 2018, about 11,500 taxpayers claimed the credit; across both years, about 17,700 unique taxpayers claimed the credit, and of those, about 6,000 (34 percent) claimed the credit in both years.

EXHIBIT 8 shows the distribution of credit amounts claimed in Calendar Year 2018. About 93 percent of taxpayers received less than $5,000 in credits, with a median amount claimed of $250, which would no longer be available if the credit were eliminated.

EXHIBIT 8. DISTRIBUTION OF CREDIT AMOUNTS CLAIMED CALENDAR YEAR 2018

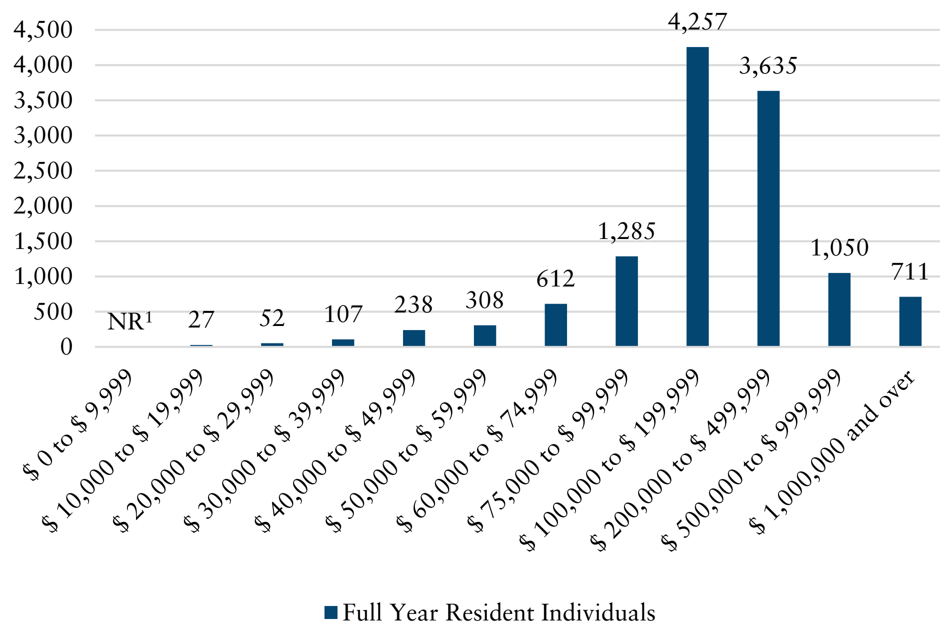


SOURCE: Department of Revenue data for taxpayers claiming the contribution credit in Calendar Year 2018.

However, it is possible that some of these taxpayers would not make contributions to enterprise zone projects if the credit was not available, and would, instead, contribute to other programs that offer different tax credits. Taxpayers could also make contributions that qualify for a charitable contribution tax deduction, which could include contributions to organizations currently approved as enterprise zone contribution projects. Therefore, eliminating the credit could have the effect of shifting some of the current revenue impact to a different tax expenditure.

While corporations, partnerships, estates, and trusts can claim the credit, individual taxpayers made up 99 percent of the taxpayers that claimed it, and 95 percent of the total credit amount claimed. Additionally, the majority of individual taxpayers contributing to the enterprise zone projects and claiming the credit have an adjusted gross income of at least $100,000. EXHIBIT 9 shows the Department's 2017 breakdown of full year resident individuals claiming the credit by federal adjusted gross income amounts.

EXHIBIT 9. INDIVIDUAL TAXPAYERS CLAIMING THE CONTRIBUTION CREDIT BY SIZE OF FEDERAL ADJUSTED GROSS INCOME, 2017



SOURCE: Department of Revenue, 2020 Tax Profile and Expenditures Report, 2017 Statistics of Income report for individual full-year residents.
[1]Not releasable per Department of Revenue.

In addition to the credit's impact on taxpayers, because survey data indicated the tax credit has an influence on charitable contribution amounts, it may impact the amount of funding or in-kind donations that contributors provide to organizations. Therefore, eliminating the tax credit would likely have an impact on the organization's ability to provide services or complete projects and would impact the enterprise zone communities that are served by these organizations. Projects cover a variety of economic development initiatives, everything from building community facilities, to operating large specialized health care organizations. It is possible that, without the credit, some contributors would donate to organizations and projects that are not as focused on specific economic development in the enterprise zone communities, or that the contributions the projects receive would be diminished.

ARE THERE SIMILAR TAX EXPENDITURES IN OTHER STATES?

In addition to Colorado, 26 other states offer tax expenditures that are similar to Colorado's Contribution Credit, although there is variation in how the tax expenditures operate. For example, only one state, Florida, has a business tax credit for contributions to public development organizations located within designated enterprise zones. While similar to Colorado's credit, this program is limited to contributions to organizations that focus on improving job opportunities for lower-income persons by developing housing, and commercial and public facilities. Alternatively, while not specific to enterprise zone designations, 11 states have tax credits for contributions to community-based, nonprofit organizations serving economically distressed areas. Several of these states offer credits for contributions to general nonprofit or government-funded activities in distressed or low-income areas, not just economic development. For example, Connecticut, Delaware, Indiana, and Louisiana all offer tax credits for contributions to organizations that offer basic social services to communities, such as housing, crime prevention, and education, in addition to services for job training or housing. Pennsylvania has four separate tax credits depending on the type of community support or economic development assistance the organization is providing. All 11 of these states have caps on the amount of credits a taxpayer qualifies for, and 10 have a cap on the amount of credits that the state will provide annually.

We also performed a more detailed review of similar tax expenditures in the states bordering Colorado. Four of these states have an enterprise zone program, and two do not have enterprise zones, but do have similar charitable contribution tax credits. However, none have tax credits for contributions to nonprofit or government-funded organizations providing services in the enterprise zones. EXHIBIT 10 summarizes the credits available in each state.

EXHIBIT 10. NEIGHBORING STATES' CONTRIBUTION TAX CREDITS

State	Summary
Arizona	**Contributions to Qualifying Charitable Organizations—**Individual income tax credit is available for contributions to organizations that provide immediate basic needs to low-income residents who receive temporary assistance for needy families (TANF) benefits, and residents who have a chronic illness or physical disability. The credit is limited to a maximum of $400 for single and heads of household or $800 for married filing jointly.
Kansas	**Community Service Contribution Credit—**Income tax credit for contributions to an approved community service organization for projects that are unique, or one-time in nature, and create a lasting value for the organization (i.e., major equipment purchase or capital construction). The credit is equal to 50 percent of the value of the contribution, or 70 percent if the organization serves a rural community, is transferable and refundable, and is limited to a maximum of $250,000 per organization and $4.1 million in credits for 2022. **Center for Entrepreneurship Credit—**Income tax credit for contributions to a network of nonprofits supporting resources for small businesses. The credit is equal to 75 percent of the value of the contribution, is nonrefundable, and limited to a maximum of $100,000 per individual and $2 million in credits per year.
Nebraska	**Community Development Assistance Credit—**Income tax credit for contributions to certified community programs in areas of chronic economic distress. Programs must contribute to the area's objectives or provide essential services to low and moderate income persons. Credits are allocated to the projects with a maximum of $50,000 per project per year and equal to 40 percent of the value of the contribution. The credit is nonrefundable, with a maximum of $350,000 in credits per year.
New Mexico	**Investments in Affordable Housing Projects—**Income tax credit equal to 50 percent of the value of contributions to affordable housing projects.

Oklahoma	**Biomedical Research Credit—**Income tax credit for contributions to the Oklahoma Medical Research Foundation or to a cancer research institute. The credit is equal to 50 percent of the value of the contribution up to $1,000, maximum of $2 million in credits per year.
Utah	**Special Needs Opportunity Scholarship Credit—**Contributions to the Utah Special Needs Opportunity Scholarship program for persons with a disability qualify for the credit, which is equal to 100 percent of the value of the contribution with a maximum of $5.9 million for 2021. **Sheltered Workshop Cash Contribution—**Contributions to nonprofit rehabilitation sheltered workshop facilities for persons with a disability qualify for a credit equal to 50 percent of the value of the contribution, with a maximum of $200.
Wyoming	No income tax

SOURCE: Office of the State Auditor analysis of Bloomberg BNA information on tax provisions in states bordering Colorado and state statutes.

ARE THERE OTHER TAX EXPENDITURES OR PROGRAMS WITH A SIMILAR PURPOSE AVAILABLE IN THE STATE?

Statute provides the following tax expenditures, which are similar to the Contribution Credit:

CREDIT FOR CHILD CARE FACILITIES [SECTION 39-22-121, C.R.S.]—The Child Care Contribution Credit provides an income tax credit of up to 50 percent of the total value of a monetary contribution to promote child care in the state. This can include monetary donations used to establish a child care facility, establish grant or loan programs to parents requiring financial assistance for child care, provide training to child care providers, or to disseminate information to assist parents in obtaining child care. The credit is also limited to $100,000 per taxpayer and is nonrefundable but may be carried forward for up to 5 years. This tax credit is set to expire effective January 1, 2025. The credit was originally enacted as part of the Enterprise Zone Contribution Tax Credit in 1990. However, in 1998, Senate Bill 98-154 removed the credit from the requirements of the Enterprise Zone Act and expanded it to be available statewide.

CHARITABLE CONTRIBUTION DEDUCTION [SECTION 39-22-104(4)(m), C.R.S.]—Allows an individual to deduct the amount of any charitable contributions totaling at least $500 from their state taxable income, if the individual claimed the standard federal deduction. In 2019, the IRS issued regulations [26 CFR 1.170A-1(h)(3)] that require taxpayers taking the federal charitable contribution deduction to reduce that deduction by the amount of any state tax credits they expect to receive if the credit is over 15 percent of the value of the deduction. Therefore, if a taxpayer claims the Contribution Credit as well as the federal charitable contribution deduction, they will need to adjust their federal charitable contribution deduction amount.

WHAT DATA CONSTRAINTS IMPACTED OUR ABILITY TO EVALUATE THE TAX EXPENDITURE?

We lacked data necessary to provide a revenue impact for Tax Years 2017 and 2019 and to compare taxpayers' actual credits claimed to the amount for which they were certified and the amount they carried forward. Specifically, while the Department has collected data specific to the Contribution Credit since 2016, it does not analyze this data for odd numbered years and did not have data available for 2017 or 2019. Additionally, the data provided for 2016 and 2018 lacked identifying information necessary to match the credits taxpayers claimed with the OEDIT contribution data. Therefore, if the General Assembly determined that this information is necessary, it could direct the Department to compile this information. According to the Department, this would require resources to develop the necessary query to pull the data from GenTax, the Department's tax processing and information system (see the Tax Expenditures Overview section of the Office of the State Auditor's *Tax Expenditures Compilation Report* for additional details on the limitations of Department data and the potential cost of addressing these limitations).

Additionally, we lacked complete data on contribution projects prior to Calendar Year 2018. Specifically, OEDIT transitioned the management of the enterprise zone credits to a Salesforce platform in 2018. While some information on contribution projects and credits prior to 2018 exists in this database, the data is incomplete; therefore, we limited our analysis to 2018 through 2020. Full information prior to 2018 exists in disaggregated form, so while OEDIT has this information available, it would take additional resources to compile data prior to 2018.

WHAT POLICY CONSIDERATIONS DID THE EVALUATION IDENTIFY?

THE GENERAL ASSEMBLY MAY WANT TO CONSIDER AMENDING STATUTE TO ESTABLISH A STATUTORY PURPOSE AND PERFORMANCE MEASURES FOR THE CONTRIBUTION CREDIT PROGRAM. As discussed, statute and the enacting legislation for the credit do not state the credit's purpose or provide performance measures for evaluating its effectiveness. Therefore, for the purposes of our evaluation, we considered a potential purpose for the exemption: to incentivize taxpayers to contribute financial or in-kind support to projects that serve the economic development goals of the enterprise zones. We identified this purpose based on the statutory language about enterprise zones, how the credit operates, and stakeholder input. We also developed performance measures to assess the extent to which the exemption is meeting this potential purpose. However, the General Assembly may want to clarify its intent for the exemption by providing a purpose statement and corresponding performance measure(s) in statute. This would eliminate potential uncertainty regarding the credit's purpose and allow our office to more definitively assess the extent to which the credit is accomplishing its intended goal(s).

THE GENERAL ASSEMBLY MAY WANT TO CONSIDER CLARIFYING ELIGIBILITY REQUIREMENTS FOR THE CREDIT. Statute [Section 39-30-103.5(1)(a)(I), C.R.S.] indicates that to be eligible for the credit, contributions must be "for the purpose of implementing the economic development plan for the enterprise zone." However, it does not further define the types of economic development activities that qualify and authorizes the EDC to develop policies guiding the administration of the credit. Some enterprise zone administrators said that because of how broadly statute is written, there has been expansion and contraction of the credit's requirements for eligible contribution projects, dependent on the priorities of the current EDC members and zone administrators.

Specifically, in recent policy changes, the EDC and zone administrators have clarified that eligible contribution projects must "link to job creation and retention and/or business expansion in the broader Enterprise Zone, not only at the Project Organization," and that "social services… that generally strengthen a community and promote opportunity, though important, are generally not eligible for Enterprise Zone project status. The Enterprise Zone program focus[es] on achieving near term economic development improvements." This is a shift from previous years when organizations like food banks, domestic violence shelters, and vehicle donation programs were eligible contribution projects because they supported basic community needs like security, safety, and transportation, which are tangential to retaining or expanding employment. These projects received approximately $4.3 million in contributions between Calendar Year 2018 and 2020. However, it is unclear whether these policies are reflective of the legislative intent for the credit.

This is further complicated because, according to zone administrators, generally, only projects that have unanimous zone administrator approval are submitted to the EDC for approval. Zone administrators reported that this peer review process provides diverse feedback to organizations and helps make contribution projects more focused on a short-term purpose, measurable activities, and consistency across the state. However, because statute is not clear on the types of eligible projects, in some cases there are still differing opinions on project eligibility that lead to projects that are not approved, or limit the type of projects that zone administrators are willing to support in their zones. Several zone administrators reported that the needs of rural and urban enterprise zones differ, and that it can be difficult to get unanimous agreement across all zone administrators who have different perspectives on the economic development needs of an area. For example, a community clinic serving the indigent population in an urban area was not approved, but large hospitals that specialize in treating specific diseases or health conditions were approved as qualified contribution projects. However, according to zone administrators the qualification of what makes a health care project 'specialized' in an urban area, and therefore qualified, is unclear. In another example, several of the rural enterprise zones that have nearby urban areas have had difficulty getting approval for health care facilities that might be located outside the zone, but serve a predominantly rural region.

Although the EDC, zone administrators, and OEDIT are well positioned to determine the economic needs within enterprise zones and appear to have acted within their statutory authority in setting eligibility requirements for the credit, the General Assembly could consider whether the current process is meeting its intent and clarifying the eligibility requirements for the credit to provide more specific guidance.

THE GENERAL ASSEMBLY COULD CONSIDER CREATING A SEPARATE STATEWIDE TAX CREDIT SPECIFIC TO CONTRIBUTIONS TO ORGANIZATIONS SERVING THE HOMELESS POPULATION. Legislation during the 2020 legislative session sought to remove the portion of the Contribution Credit statute that allows projects related to providing housing and employment services to the homeless population and instead make a standalone credit for contributions to homelessness programs, similar to how the Child Care Contribution Credit operates. However, this legislation was postponed indefinitely and was not enacted. According to OEDIT, the purpose of creating a statewide credit for homelessness programs was to better address homelessness by transferring administration of the credit to the Department of Local Affairs (DOLA), which manages the Division of Housing's Office of Homeless Initiatives, and for the organizations to better meet the needs of individuals in preventing and addressing homelessness. According to OEDIT and four of the enterprise zone administrators we interviewed, having homelessness experts in the state from DOLA managing the eligible projects and program may be beneficial to creating and funding programs that can better meet the needs of the homeless population, rather than focusing only on the economic development aspects of homelessness assistance, such as job training and emergency housing. Additionally, enterprise zone boundaries, specifically in urban areas, are drawn to conform to specific criteria, which in urban areas results in boundaries that maximize business districts to drive investment and economic activity. However, organizations providing housing generally look to create housing in residential areas, which may be outside the enterprise zone. While the zone administrators and the EDC have developed policies that allow for projects to be eligible for contribution status even if they are not located inside the zone boundaries, they must engage in services within the enterprise zone.

During interviews, 14 of the 16 enterprise zone administrators we spoke with expressed that having a separate statewide tax credit would not have a negative impact on the homelessness organizations in their enterprise zones and instead would allow the organizations to be more flexible in their prevention and intervention services. One zone administrator did express that the majority of their contributions are directed to homelessness organizations, and therefore, the fee revenue they collect in order to staff and manage the contribution project program would be reduced, but they still felt there was a bigger benefit to the homelessness organizations. Another zone administrator expressed concern that if all contributions to homelessness organizations in the state were eligible for a tax credit, the organizations in their area might receive fewer contributions as taxpayers donate to larger, more widely known organizations in other areas of the state. Roughly 1,300 of the 2,300 contributors that responded to our survey indicated they had contributed to a project supporting homeless populations. Only 3 percent indicated that they would contribute to a homeless assistance organization outside of their geographic region and most indicated that they would continue to support local organizations where they already have a connection.

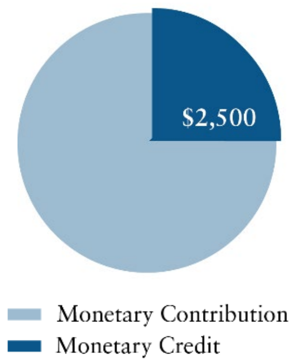
However, if a separate non-enterprise zone tax credit for contributions to homelessness assistance organizations were created, it could increase the revenue impact to the State if more organizations and projects were eligible to certify credits. For example, if an organization currently can only certify credits for the job training portion of its services within enterprise zones, but the credit becomes statewide and is not tied to economic development, then the organization could certify credits for all contributions that it receives, which would have a higher revenue impact on the State. Although we lacked information necessary to quantify this impact, it appears it could be significant. Specifically, from 2018 to 2020, certified credits for contributions to homelessness assistance programs, including job training, job referral, and housing, were approximately $23.5 million, or about 13 percent of all credits certified during these years, which indicates that an expansion of credit availability for these types of projects could have a substantial revenue impact.

THE GENERAL ASSEMBLY MAY WANT TO CONSIDER AMENDING STATUTE TO CLARIFY THE LIMITATIONS ON IN-KIND CONTRIBUTIONS. Statute states that "any taxpayer who makes a monetary or in-kind contribution…shall be allowed an amount equal to 25 percent of the total value of the contribution," and that "in-kind contributions shall not exceed fifty percent of the total credit claimed" [Section 39-30-103.5(1)(a)(I) and(b), C.R.S.]. A literal reading of statute would mean that a taxpayer could not receive a credit for the value of their in-kind contribution, unless they also contributed an equal amount of cash, because, according to statute, the in-kind contribution amount, not the credit from the in-kind contribution, is limited to 50 percent of the total credit. For example, if a taxpayer provides professional services to a project, 100 percent of their contribution would be in-kind, and under a literal reading of statute, would not be allowed, as the in-kind portion of their contribution exceeds 50 percent of the total contribution. Instead, the Department has interpreted statute to mean that the amount of the credit that results from the in-kind contribution cannot be more than 50 percent of the total credit. EXHIBIT 11 provides the credit available based on a hypothetical $10,000 cash contribution and a separate $10,000 in-kind contribution. As shown, the Department calculates 25 percent of the total value of the contribution to determine the initial credit regardless of whether the contribution is monetary or in-kind. However, if the contribution is in-kind, the allowable credit is 50 percent of the initial calculation (i.e., 12.5 percent of the value of the in-kind contribution).

EXHIBIT 11. CREDITS AVAILABLE FOR MONETARY VERSUS IN-KIND CONTRIBUTIONS

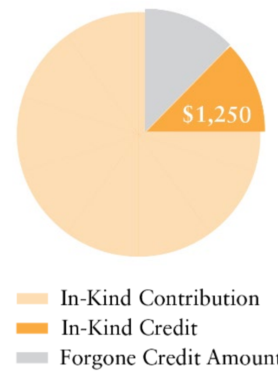
Contribution: $10,000 cash

Rule: 25 percent of the value of the contribution.



Contribution: $10,000 in-kind (land, stock, services, etc.)

Rule: If the contribution is in-kind, the credit cannot exceed 50 percent of the value of the in-kind credit.



SOURCE: Office of the State Auditor example of Department of Revenue credit calculation from regulations [Section 1 CCR 201-13, Rule 39-30-103.5] and form DR-1366.

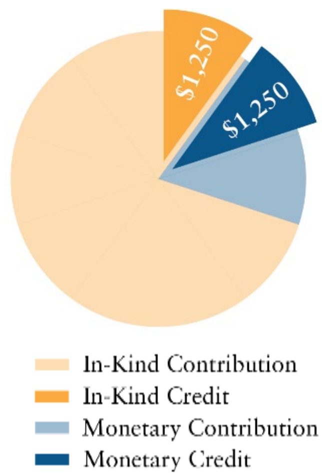
Department staff told us that additional clarity for statute that would allow for a literal interpretation of the amount of credits allowed for an in-kind contribution would be helpful.

Additionally, while statute states that the credit is “an amount equal to 25 percent of the total value of the contribution,” it does not specify how a credit should be calculated when a taxpayer makes both monetary and in-kind contributions in the same year since the credit from the in-kind contribution can only be 50 percent of the total credit. The Department has used two approaches to calculating the credit for these kind of mixed contributions in recent years, updating its regulations following Tax Year 2018. EXHIBIT 12 shows an example, based on Department regulations for Calendar Year 2018 and prior that directed a taxpayer to calculate 25 percent of their total combined contribution, and then multiply that result by 50 percent to reach the value allowed for the in-kind portion. The remaining 50 percent could be made up of the monetary contribution. As shown, for a contribution totaling $10,000, composed of a $2,000 cash contribution and an $8,000 in-kind contribution, the credit is $2,500, the same as it would be for an all-cash contribution, even though the credit resulting from the cash portion exceeds 25 percent of the value of the monetary contribution ($2,000).

EXHIBIT 12. CREDITS AVAILABLE FOR MIXED MONETARY AND IN-KIND CONTRIBUTIONS CALENDAR YEAR 2018 AND PRIOR

Contribution: $10,000 value ($2,000 in cash and $8,000 in-kind)

Rule:
25 percent of the value of the contribution, but the in-kind portion of the credit cannot make up more than 50 percent of the total credit.



SOURCE: Office of the State Auditor example of Department of Revenue credit calculation from regulations [Section 1 CCR 201-13, Rule 39-30-103.5] for Calendar Year 2018 and prior.

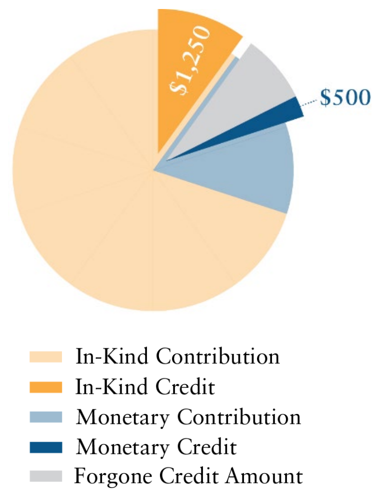
While this calculation meets the Department regulations [Section 1 CCR 201-13, Rule 39-30-103.5] that the in-kind portion of the credit shall not exceed 50 percent of the total credit claimed, the Department determined that this did not meet the best interpretation of statute because it allowed contributors to claim a credit for more than 25 percent of their monetary contribution. For example, in EXHIBIT 12, the monetary portion of the credit is $1,250, which is 62.5 percent of the monetary portion of the taxpayer contribution ($2,000). Therefore, in 2019, the Department issued revised regulations so that the credit allowed for monetary contributions is 25 percent of the monetary contribution regardless of the amount of in-kind contributions. EXHIBIT 13 shows the same contribution example, but using the Department's 2019 to present regulations.

EXHIBIT 13. CREDITS AVAILABLE FOR MIXED MONETARY AND IN-KIND CONTRIBUTIONS CALENDAR YEAR 2019 TO PRESENT

Contribution: $10,000 value ($2,000 in cash and $8,000 in-kind)

<u>Rule</u>:
25 percent of the value of the contribution, but the in-kind portion of the credit cannot make up more than 50 percent of the total credit.

Plus a cap on the monetary portion of the credit, equal to 25 percent of the value of the monetary portion of the contribution.



SOURCE: Office of the State Auditor example of Department of Revenue credit calculation from regulations [Section 1 CCR 201-13, Rule 39-30-103.5] and DR-1366 for Calendar Year 2019 to present.

While this is a stricter interpretation of statute in regards to the credit not exceeding 25 percent of the monetary contribution, it does not meet the Department's interpretation of statute, that the in-kind portion of the credit cannot exceed 50 percent of the amount of the credit. In the example in EXHIBIT 13, the taxpayer receives a credit of $1,250 for their in-kind contribution of $8,000. This is 71 percent of the total amount of the credit ($1,750) and 16 percent of the total value of the in-kind contribution ($8,000).

This may also cause confusion for taxpayers as OEDIT's Salesforce system records all contributions separately and, therefore, the calculation on the taxpayer's certificate may not align with current calculations for mixed contributions on the Department's Enterprise Zone Credit and Carryforward Schedule (Form DR 1366). While mixed contributions only affect about 2 percent of taxpayers claiming the credit, the General Assembly may consider simplifying statute so that the credits available for monetary, in-kind, or mixed contributions are all consistent (e.g., 25 percent of the value of monetary contributions and 12.5 percent of the value of in-kind contributions) and the Department can interpret the statute as written. This would also help ensure that any credit calculated, regardless of the proportion of monetary and in-kind contributions, can meet statutory requirements.