



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB1935

Introduced 2/20/2009, by Sen. A. J. Wilhelmi

#### SYNOPSIS AS INTRODUCED:

New Act  
35 ILCS 5/218 new

Creates the Endow Illinois Tax Credit Act and amends the Illinois Income Tax Act. Requires the Department of Commerce and Economic Opportunity to authorize an income tax credit to taxpayers who provide an endowment gift to a permanent endowment fund. Sets forth procedures and criteria for authorizing the credits. Provides that the aggregate amount of all credits that the Department may authorize in any calendar year may not exceed \$50,000,000. Requires the Department to make an annual report concerning the credits. Provides that the credit may be carried forward for 5 years. Exempts the credit from the Act's sunset provisions. Effective immediately.

LRB096 11104 HLH 21452 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Endow  
5 Illinois Tax Credit Act.

6 Section 5. Definitions. For the purposes of this Act:

7 "Department" means the Department of Commerce and Economic  
8 Opportunity.

9 "Endowment gift" means an irrevocable contribution to a  
10 permanent endowment fund held by a qualified community  
11 foundation.

12 "Permanent endowment fund" means a fund that (i) is held by  
13 a qualified community foundation to provide benefit to  
14 charitable causes in the State, (ii) is intended to exist in  
15 perpetuity, and (iii) has an annual spend rate of 5% or less.

16 "Qualified community foundation" means a community  
17 foundation or similar publicly-supported organization  
18 described in Section 170 (b) (1) (A) (vi) of the Internal Revenue  
19 Code of 1986 that is organized or operating in this State and  
20 that substantially complies with the national standards for  
21 U.S. community foundations that are established by the National  
22 Council on Foundations, as determined by the Department.

1 Section 10. Tax credit awards.

2 (a) The Department shall authorize an income tax credit to  
3 taxpayers who provide an endowment gift to a permanent  
4 endowment fund. The amount of the credit that may be authorized  
5 to a taxpayer by the Department under this Act is an amount  
6 equal to 50% of the endowment gift, but may not exceed  
7 \$250,000.

8 (b) The aggregate amount of all credits that the Department  
9 may authorize in any calendar year under this Act may not  
10 exceed \$50,000,000. The aggregate amount of all credits that  
11 the Department may authorize to any single taxpayer in a  
12 calendar year may not exceed 5% of the aggregate amount of all  
13 credits authorized by the Department in that calendar year.

14 (c) If the Department receives applications for tax credit  
15 in excess of the amount available, then the applications must  
16 be prioritized by the date that the Department received them.  
17 If the number of applications exceeds the amount of annual tax  
18 credits available, then the Department must establish a wait  
19 list for the next year's allocation of tax credits, and  
20 applications must first be funded in the order listed on that  
21 wait list.

22 Section 15. Applications for tax credits.

23 (a) The Department shall develop and make available a  
24 standardized application pertaining to the allocation of tax  
25 credits under this Act.

1 (b) Of the annual amount available for tax credits, 10%  
2 must be reserved for those endowment gifts of \$30,000 or less.  
3 If, by September 1 of any year, the entire 10% that is reserved  
4 for permanent endowment gifts totalling \$30,000 or less is not  
5 allocated, then the remaining amount is available for other  
6 applicants.

7 (c) The Department must accept applications and authorize  
8 credits in an ongoing basis. The Department must make public,  
9 by June 1 and by December 1 of each year, the total number of  
10 requests for tax credits and the total amount of requested tax  
11 credits that have been submitted and awarded.

12 Section 20. Annual report. By January 31 of each year, the  
13 Department must submit an annual report to the Governor and the  
14 General Assembly concerning the activities conducted under this  
15 Act during the previous calendar year. The report must include  
16 a detailed listing of tax credits authorized under this Act by  
17 the Department.

18 Section 90. The Illinois Income Tax Act is amended by  
19 adding Section 218 as follows:

20 (35 ILCS 5/218 new)

21 Sec. 218. The Endow Illinois Tax Credit.

22 (a) For taxable years ending on or after December 31, 2009,  
23 each taxpayer for whom a tax credit has been authorized by the

1 Department of Commerce and Economic Opportunity under the Endow  
2 Illinois Tax Credit Act, is entitled to a credit against the  
3 tax imposed under subsections (a) and (b) of Section 201 in an  
4 amount equal to the amount authorized under that Act.

5 (b) For partners, shareholders of Subchapter S  
6 corporations, and owners of limited liability companies, if the  
7 liability company is treated as a partnership for purposes of  
8 federal and State income taxation, there is allowed a credit  
9 under this Section to be determined in accordance with the  
10 determination of income and distributive share of income under  
11 Sections 702 and 704 and Subchapter S of the Internal Revenue  
12 Code.

13 (c) The credit may not be carried back and may not reduce  
14 the taxpayer's liability to less than zero. If the amount of  
15 the credit exceeds the tax liability for the year, the excess  
16 may be carried forward and applied to the tax liability of the  
17 5 taxable years following the excess credit year. The tax  
18 credit shall be applied to the earliest year for which there is  
19 a tax liability. If there are credits for more than one year  
20 that are available to offset a liability, the earlier credit  
21 shall be applied first.

22 (d) This Section is exempt from the provisions of Section  
23 250.

24 Section 99. Effective date. This Act takes effect upon  
25 becoming law.