

Second Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0505.01 Megan McCall x4215

HOUSE BILL 22-1149

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HOUSE SPONSORSHIP

Lynch and Bird,

SENATE SPONSORSHIP

Rankin,

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House Committees  
Finance

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING THE EXPANSION OF THE ADVANCED INDUSTRY  
102 INVESTMENT 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://leg.colorado.gov>.)*

The bill extends the advanced industry investment tax credit for an additional 5 years, increases the annual maximum amount of the tax credit from \$750,000 to \$4 million and increases the tax credit from 30% to 35% of a qualified investment in rural or economically distressed areas.

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

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-48.5-112, **amend**  
3 (1)(e) introductory portion, (2)(c), (3)(a), (3)(b)(I), (3)(c), and (6); and  
4 **add** (1.5) as follows:

5 **24-48.5-112. Advanced industry investment tax credit -**  
6 **administration - legislative declaration - definitions - repeal.** (1) As  
7 used in this section, unless the context otherwise requires:

8 (e) "Qualified investment" means an investment made at any time  
9 on or after July 1, 2014, but before ~~January 1, 2023~~ JANUARY 1, 2028, in  
10 an equity security that meets all of the following requirements:

11 (1.5) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH  
12 REQUIRES EACH BILL THAT EXTENDS AN EXPIRING TAX EXPENDITURE TO  
13 INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A  
14 STATUTORY LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY HEREBY  
15 FINDS AND DECLARES THAT:

16 (a) THE GENERAL LEGISLATIVE PURPOSES OF THE TAX CREDIT  
17 ALLOWED BY THIS SECTION ARE:

- 18 (I) TO INDUCE CERTAIN DESIGNATED BEHAVIOR BY TAXPAYERS;
- 19 (II) TO IMPROVE INDUSTRY COMPETITIVENESS; AND
- 20 (III) TO PROVIDE TAX RELIEF FOR CERTAIN BUSINESSES OR  
21 INDIVIDUALS;

22 (b) THE SPECIFIC LEGISLATIVE PURPOSE OF THE TAX CREDIT  
23 ALLOWED BY THIS SECTION IS TO ENCOURAGE INVESTMENT IN SMALL  
24 BUSINESSES LOCATED IN COLORADO IN ADVANCED INDUSTRIES, AND IN  
25 PARTICULAR IN SMALL BUSINESSES IN ADVANCED INDUSTRIES LOCATED IN  
26 A RURAL AREA OR ECONOMICALLY DISTRESSED AREA OF THE STATE; AND

27 (c) THE STATEMENT REQUIRED BY AN APPLICANT ON THE

1 APPLICATION FOR AN ADVANCED INDUSTRY INVESTMENT TAX CREDIT SET  
2 FORTH IN SUBSECTION (2)(e) OF THIS SECTION, AND THE REPORTS THAT  
3 THE OFFICE IS REQUIRED TO SUBMIT PURSUANT TO SUBSECTION (6) OF THIS  
4 SECTION, WILL ALLOW THE GENERAL ASSEMBLY AND THE STATE AUDITOR  
5 TO MEASURE THE EFFECTIVENESS OF THE TAX EXPENDITURE.

6 (2) (c) A business may request the office to determine whether it  
7 is a qualified small business. Upon receiving the request or upon receipt  
8 of an application for an advanced industry investment tax credit from a  
9 qualified investor, the office shall determine whether the business that is  
10 named in the application or written request is a qualified small business.  
11 After determining the qualifications, the office shall certify the qualified  
12 small business as being eligible to receive qualified investments for  
13 purposes of this section. The certification for a qualified small business  
14 that is certified after July 1, 2014, is valid until ~~January 1, 2023~~ JANUARY  
15 1, 2028; except that the certification is revoked if the business no longer  
16 meets the qualifications. A business shall notify the office within thirty  
17 business days from the date that it no longer meets the qualifications. If  
18 the certification is revoked, the office may assess a penalty against the  
19 business that is equal to the amount of the advanced industry investment  
20 tax credits authorized after the date that the business no longer meets the  
21 qualifications. The state treasurer shall deposit the penalty into the state  
22 general fund. If the certification is revoked, subsequent investments in the  
23 business do not qualify for a tax credit. All tax credits issued before the  
24 revocation of the certification remain valid. The office shall not deny any  
25 application for a tax credit on the basis of the revocation of the  
26 certification if the investment was made before the date of the revocation.

27 (3) (a) Subject to the limitations set forth in ~~paragraph (b)~~ of this

1 ~~subsection (3)~~ SUBSECTION (3)(b) OF THIS SECTION, the office shall  
2 authorize an advanced industry investment tax credit for each qualified  
3 investor who makes a qualified investment in a qualified small business.  
4 The amount of the tax credit is twenty-five percent of the amount of the  
5 qualified investment or ~~thirty~~ THIRTY-FIVE percent of the qualified  
6 investment if the qualified small business is located in a rural area or  
7 economically distressed area of the state as determined by the office. The  
8 office shall issue a tax credit certificate to the qualified investor for each  
9 qualified investment stating the amount of the tax credit that is authorized  
10 for purposes of section 39-22-532. ~~C.R.S.~~ A tax credit certificate is  
11 nontransferable. The office shall certify to the department of revenue the  
12 name of each qualified investor who receives a tax credit certificate, the  
13 amount of the tax credit, and other relevant information relating to the tax  
14 credit.

15 (b) (I) The total amount of the advanced industry investment tax  
16 credits shall not exceed three hundred seventy-five thousand dollars for  
17 the 2014 calendar year; ~~and~~ seven hundred fifty thousand dollars for each  
18 calendar year from 2015 through 2022; AND FOUR MILLION DOLLARS FOR  
19 EACH CALENDAR YEAR FROM 2023 THROUGH 2028; except that, if the total  
20 amount of the credits for 2018 or a later calendar year is less than the  
21 maximum amount, then the maximum amount for the next year is  
22 increased by an amount equal to the remaining, unused tax credits from  
23 the prior year. The office shall authorize the tax credits in the order that  
24 applications are received by the office and shall deny any application  
25 received after the limit has been met. The office may partially authorize  
26 the last tax credit that is awarded up to the limit.

27 (c) To claim an advanced industry investment tax credit, a

1 qualified investor must submit a copy of each tax credit certificate as part  
2 of a tax return to the department of revenue in accordance with section  
3 39-22-532 (3) ~~C.R.S.~~, by the due date of the return, including extensions,  
4 for the tax year during which the qualified investment was made. If the  
5 qualified investor fails to timely file the tax credit certificate, the tax  
6 credit expires for that taxable year and there is no carry forward of the  
7 expired tax credit. The office shall not reissue a tax credit certificate for  
8 a credit that expires or that otherwise is not timely used by the qualified  
9 investor DURING THE CARRY FORWARD PERIOD SET FORTH IN SECTION  
10 39-22-532 (4).

11 (6) On November 1, 2017, the office shall submit a first report to  
12 the finance and the business, labor, and economic and workforce  
13 development committees of the house of representatives; to the business,  
14 labor, and technology and the finance committees of the senate, or any  
15 successor committees; and to the joint budget committee summarizing all  
16 of the tax certificates issued since July 1, 2014. At a minimum, the report  
17 must include the amount of the capital invested by qualified investors and  
18 the tax credit that each qualified investor received, a description of the  
19 qualified businesses that received the qualified investment, a projection  
20 of the number of new employees hired by the qualified small businesses  
21 as a result of the qualified investment, the geographic distribution of the  
22 jobs, and any other economic impacts that resulted from the qualified  
23 investment. Notwithstanding section 24-1-136 (11), the office shall  
24 submit a second report on November 1, 2022, AND A THIRD REPORT ON  
25 NOVEMBER 1, 2027, to the same legislative committees summarizing, FOR  
26 THE SECOND REPORT, all of the tax certificates issued after January 1,  
27 2018, AND, FOR THE THIRD REPORT, ALL OF THE TAX CERTIFICATES ISSUED

1 AFTER JANUARY 1, 2023. The second ~~report~~ AND THIRD REPORTS must  
2 include the same information as the first report.

3 **SECTION 2. Act subject to petition - effective date.** This act  
4 takes 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; except  
6 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
7 of the state constitution against this act or an item, section, or part of this  
8 act within such period, then the act, item, section, or part will not take  
9 effect unless approved by the people at the general election to be held in  
10 November 2022 and, in such case, will take effect on the date of the  
11 official declaration of the vote thereon by the governor.