

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 23-0682.01 Megan McCall x4215

HOUSE BILL 23-1289

HOUSE SPONSORSHIP

Pugliese and Bird,

SENATE SPONSORSHIP

Liston and Bridges,

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING INCOME TAX CREDITS FOR SUSTAINABILITY
102 ADVANCEMENTS IN THE AVIATION INDUSTRY, AND, IN
103 CONNECTION THEREWITH, ALLOWING AN INCOME TAX CREDIT
104 FOR THE PURCHASE OF ELECTRIC-POWERED AVIATION GROUND
105 SUPPORT EQUIPMENT AND ALLOWING AN INCOME TAX CREDIT
106 FOR INVESTMENTS MADE IN A BUSINESS IN THE STATE THAT
107 RESEARCHES, DEVELOPS, OR PRODUCES ALTERNATIVE AVIATION
108 FUELS OR ALTERNATIVE AIRCRAFT POWERPLANTS.

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

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

<http://leg.colorado.gov>.)

Section 1 of the bill creates a new refundable income tax credit for income tax years commencing on and after January 1, 2024, but before January 1, 2033, for the purchase or lease of electric-powered aviation ground support equipment that is purchased or leased to replace similar models of gas-powered or diesel-powered aviation ground support equipment in the amount of 18% of the actual cost to purchase the equipment that may be claimed by a qualifying taxpayer; except that the total amount of credits available to be claimed is \$250,000 in each tax year and is available on a first come, first served basis. A qualifying taxpayer is an aviation business, an airport, or a fixed base operator. Only one tax credit may be claimed per individual piece of equipment.

Section 2 creates a new refundable income tax credit for income tax years commencing on and after January 1, 2024, but before January 1, 2033, for an investment made by a qualified investor in a qualified business that researches, develops, or produces alternative aviation fuels or alternative aircraft powerplants in the amount of 30% of the investment; except that the total amount of credits available to be claimed is capped for each tax year for which the credit is allowed and is available on a first come, first served basis. The investment must be used by the qualified business in furtherance of research, development, or production of alternative aviation fuels or alternative aircraft powerplants. The executive director of the department of revenue is authorized to promulgate rules to implement the tax credit, including precertification of a business as a qualified business eligible to receive a qualified investment.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 39-22-516.9 as
3 follows:

4 **39-22-516.9. Tax credit for innovative aviation ground**
5 **support equipment - tax preference performance statement -**
6 **definitions - repeal.** (1) (a) IN ACCORDANCE WITH SECTION 39-21-304
7 (1), WHICH REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE
8 TO INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A
9 STATUTORY LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY FINDS
10 AND DECLARES THAT THE PURPOSE OF THIS TAX EXPENDITURE IS TO

1 INDUCE CERTAIN DESIGNATED BEHAVIOR BY TAXPAYERS, SPECIFICALLY
2 THE PURCHASE OF ELECTRIC-POWERED AVIATION GROUND SUPPORT
3 EQUIPMENT, AND PROVIDE TAX RELIEF FOR CERTAIN BUSINESSES OR
4 INDIVIDUALS WHO PURCHASE ELECTRIC-POWERED AVIATION GROUND
5 SUPPORT EQUIPMENT.

6 (b) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL
7 MEASURE THE EFFECTIVENESS OF THE CREDIT IN ACHIEVING THE PURPOSES
8 SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION BASED ON THE NUMBER
9 AND VALUE OF THE CREDITS CLAIMED.

10 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
11 REQUIRES:

12 (a) "ACTUAL COST INCURRED" MEANS THE ACTUAL COST PAID BY
13 THE PURCHASER FOR ELECTRIC-POWERED AVIATION GROUND SUPPORT
14 EQUIPMENT OR THE TOTAL AMOUNT OF THE PAYMENTS DUE BY A LESSEE
15 UNDER A LEASE FOR ELECTRIC-POWERED AVIATION GROUND SUPPORT
16 EQUIPMENT, MINUS ANY CREDITS, GRANTS, OR REBATES, INCLUDING
17 FEDERAL CREDITS, GRANTS, OR REBATES RECEIVED BUT EXCLUDING THE
18 CREDIT SPECIFIED IN THIS SECTION.

19 (b) "AIRPORT" HAS THE SAME MEANING AS SET FORTH IN SECTION
20 41-3-103 (2).

21 (c) "AVIATION BUSINESS" IS A BUSINESS LOCATED AT AN AIRPORT
22 THAT IS ENGAGED IN AVIATION OPERATIONS OR AVIATION SUPPORT.

23 (d) "AVIATION GROUND SUPPORT EQUIPMENT" MEANS NEW
24 GROUND POWER UNITS, BAGGAGE CARTS, TUGS, AIR STAIRS, BELT
25 LOADERS, AND DE-ICING EQUIPMENT, INCLUDING THE CHARGING SYSTEM
26 USED TO PROVIDE ELECTRICITY TO THE EQUIPMENT, THAT IS EXCLUSIVELY
27 USED FOR AVIATION GROUND SUPPORT OPERATIONS AT AN AIRPORT IN THE

1 STATE AND THAT HAS BEEN ASSIGNED A UNIQUE SERIAL NUMBER BY ITS
2 MANUFACTURER.

3 (e) "COLORADO ENERGY OFFICE" OR "OFFICE" MEANS THE
4 COLORADO ENERGY OFFICE CREATED IN SECTION 24-38.5-101.

5 (f) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

6 (g) "FIXED BASE OPERATOR" MEANS A COMMERCIAL BUSINESS
7 THAT IS GRANTED THE RIGHT TO OPERATE AT AN AIRPORT AND PROVIDE
8 ANY OR ALL OF THE FOLLOWING AERONAUTICAL SERVICES:

9 (I) FUELING;

10 (II) HANGARING;

11 (III) TIE-DOWN AND PARKING;

12 (IV) AIRCRAFT RENTAL;

13 (V) AIRCRAFT MAINTENANCE; OR

14 (VI) FLIGHT INSTRUCTION.

15 (h) "QUALIFIED TAXPAYER" MEANS AN AVIATION BUSINESS,
16 AIRPORT, OR FIXED BASE OPERATOR THAT IS SUBJECT TO TAX UNDER THIS
17 ARTICLE 22.

18 (3) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
19 JANUARY 1, 2024, BUT BEFORE JANUARY 1, 2033, A QUALIFIED TAXPAYER
20 IS ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE 22 IN
21 AN AMOUNT EQUAL TO EIGHTEEN PERCENT OF THE ACTUAL COST PAID TO
22 PURCHASE OR LEASE ELECTRIC-POWERED AVIATION GROUND SUPPORT
23 EQUIPMENT THAT IS PURCHASED OR LEASED TO REPLACE SIMILAR MODELS
24 OF GAS-POWERED OR DIESEL-POWERED AVIATION GROUND SUPPORT
25 EQUIPMENT AND THAT IS PLACED IN SERVICE DURING THE INCOME TAX
26 YEAR.

27 (b) IF ELECTRIC-POWERED AVIATION GROUND SUPPORT EQUIPMENT

1 IS LEASED, THE LEASE MUST BE FOR A TERM OF AT LEAST TWO YEARS AND
2 THE LESSEE, NOT THE LESSOR, IS ALLOWED TO CLAIM THE CREDIT
3 ALLOWED PURSUANT TO THIS SECTION.

4 (4) (a) A QUALIFIED TAXPAYER SHALL SUBMIT AN APPLICATION TO
5 THE OFFICE FOR A TAX CREDIT CERTIFICATE TO CLAIM THE CREDIT
6 ALLOWED BY THIS SECTION IN A FORM AND MANNER PRESCRIBED BY THE
7 OFFICE. THE APPLICATION MUST INCLUDE INFORMATION TO ALLOW THE
8 OFFICE TO MAKE A DETERMINATION THAT THE APPLICANT IS A QUALIFIED
9 TAXPAYER AND THAT THE AMOUNT APPLIED FOR IS THE ACTUAL COST PAID
10 TO PURCHASE OR LEASE ELECTRIC-POWERED AVIATION GROUND SUPPORT
11 EQUIPMENT FOR WHICH A CREDIT IS ALLOWED BY THIS SECTION.

12 (b) THE AGGREGATE AMOUNT OF ALL TAX CREDIT CERTIFICATES
13 ISSUED BY THE OFFICE PURSUANT TO THIS SUBSECTION (4) MUST NOT
14 EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS PER INCOME TAX YEAR.
15 IN APPLYING THE LIMIT IN THIS SUBSECTION (4)(b) TO INCOME TAX YEARS
16 BEGINNING ON ANY DATE OTHER THAN JANUARY 1, THE AMOUNT OF THE
17 TAX CREDIT CERTIFICATE ISSUED IS ATTRIBUTED TO THE YEAR IN WHICH
18 THE INCOME TAX YEAR BEGINS.

19 (c) THE OFFICE SHALL, IN A SUFFICIENTLY TIMELY MANNER TO
20 ALLOW THE DEPARTMENT TO PROCESS RETURNS CLAIMING THE INCOME
21 TAX CREDIT ALLOWED IN THIS SECTION, PROVIDE THE DEPARTMENT WITH
22 AN ELECTRONIC REPORT OF EACH QUALIFIED TAXPAYER THAT THE OFFICE
23 APPROVED FOR THE INCOME TAX CREDIT ALLOWED IN THIS SECTION FOR
24 THE PRECEDING CALENDAR YEAR THAT INCLUDES THE FOLLOWING
25 INFORMATION:

26 (I) THE TAXPAYER'S NAME;

27 (II) THE TAXPAYER'S SOCIAL SECURITY NUMBER OR THE

1 TAXPAYER'S COLORADO ACCOUNT NUMBER AND FEDERAL EMPLOYER
2 IDENTIFICATION NUMBER; AND

3 (III) THE AMOUNT OF THE TAX CREDIT CERTIFICATE.

4 (5) NO MORE THAN ONE TAX CREDIT SHALL BE GRANTED
5 PURSUANT TO THIS SECTION FOR ANY INDIVIDUAL PIECE OF
6 ELECTRIC-POWERED GROUND SUPPORT AVIATION EQUIPMENT. A
7 QUALIFIED TAXPAYER SHALL PROVIDE THE OFFICE WITH THE SERIAL
8 NUMBER OF THE AVIATION GROUND SUPPORT EQUIPMENT FOR WHICH THE
9 QUALIFIED TAXPAYER CLAIMS A CREDIT PURSUANT TO THIS SECTION, AND
10 THE OFFICE SHALL TRACK THE SERIAL NUMBERS.

11 (6) IF THE CREDIT AUTHORIZED IN THIS SECTION EXCEEDS THE
12 INCOME TAX DUE ON THE INCOME OF THE QUALIFIED TAXPAYER FOR THE
13 TAXABLE YEAR, THE EXCESS CREDIT MAY NOT BE CARRIED FORWARD AND
14 SHALL BE REFUNDED TO THE QUALIFIED TAXPAYER.

15 (7) IN ACCORDANCE WITH THE LIMITATION ON THE MAXIMUM
16 TOTAL AMOUNT OF CREDITS THAT MAY BE CLAIMED FOR AN INCOME TAX
17 YEAR SET FORTH IN SUBSECTION (4)(b) OF THIS SECTION, QUALIFIED
18 TAXPAYERS ARE ALLOWED THE TAX CREDIT PURSUANT TO THIS SECTION
19 IN THE ORDER IN WHICH THE OFFICE RECEIVES A COMPLETED APPLICATION
20 THAT COMPLIES WITH THE REQUIREMENTS OF THIS SECTION AND ANY
21 OTHER REQUIREMENTS SET FORTH BY THE OFFICE.

22 (8) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2043.

23 **SECTION 2.** In Colorado Revised Statutes, **add** 39-22-549 as
24 follows:

25 **39-22-549. Tax credit for investment in sustainable aviation**
26 **technologies and advancements - tax preference performance**
27 **statement - rules - definitions - repeal.** (1) (a) IN ACCORDANCE WITH

1 SECTION 39-21-304(1), WHICH REQUIRES EACH BILL THAT CREATES A NEW
2 TAX EXPENDITURE TO INCLUDE A TAX PREFERENCE PERFORMANCE
3 STATEMENT AS PART OF A STATUTORY LEGISLATIVE DECLARATION, THE
4 GENERAL ASSEMBLY FINDS AND DECLARES THAT THE PURPOSE OF THIS TAX
5 EXPENDITURE IS TO INDUCE CERTAIN DESIGNATED BEHAVIOR BY
6 TAXPAYERS, IMPROVE INDUSTRY COMPETITIVENESS, AND PROVIDE TAX
7 RELIEF FOR CERTAIN BUSINESSES OR INDIVIDUALS BY ENCOURAGING
8 INVESTMENT IN BUSINESSES IN THE STATE THAT RESEARCH, DEVELOP, OR
9 PRODUCE ALTERNATIVE AVIATION FUELS OR ALTERNATIVE AIRCRAFT
10 POWERPLANTS.

11 (b) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL
12 MEASURE THE EFFECTIVENESS OF THE CREDIT IN ACHIEVING THE PURPOSES
13 SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION BASED ON THE NUMBER
14 AND VALUE OF THE CREDITS CLAIMED.

15 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
16 REQUIRES:

17 (a) "AIRCRAFT POWERPLANT" MEANS THE ENGINE OF AN AIRCRAFT
18 THAT PROVIDES MECHANICAL FORCE TO POWER OR PROPEL THE AIRCRAFT
19 AND ASSOCIATED ACCESSORIES NECESSARY FOR FLIGHT.

20 (b) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

21 (c) "SUSTAINABLE AVIATION FUEL" MEANS LIQUID FUEL THAT
22 MEETS THE CRITERIA SET FORTH IN 26 U.S.C. SECS. 40B (d) AND 40B (e),
23 AS AMENDED.

24 (d) (I) "QUALIFIED BUSINESS" MEANS A CORPORATION, LIMITED
25 LIABILITY COMPANY, PARTNERSHIP, OR OTHER BUSINESS ENTITY THAT IS
26 ENGAGED IN THE RESEARCH, DEVELOPMENT, OR PRODUCTION OF
27 ALTERNATIVE AVIATION FUELS OR ALTERNATIVE AIRCRAFT POWERPLANTS

1 IN THE STATE, INCLUDING ELECTRIC AIRCRAFT PROPULSION SYSTEMS,
2 SUSTAINABLE AVIATION FUEL, HYDROGEN, ALTERNATIVES TO LEADED
3 AVIATION GAS, OR DEVELOPMENT OF RELATED INFRASTRUCTURE IN THE
4 STATE.

5 (II) A "QUALIFIED BUSINESS" MAY BE A QUALIFIED INVESTOR FOR
6 PURPOSES OF MAKING A QUALIFIED INVESTMENT PURSUANT TO THIS
7 SECTION.

8 (e) "QUALIFIED INVESTMENT" MEANS AN INVESTMENT MADE AT
9 ANY TIME AFTER JANUARY 1, 2024, BUT BEFORE JANUARY 1, 2033, IN AN
10 EQUITY SECURITY THAT MEETS ALL OF THE FOLLOWING REQUIREMENTS:

11 (I) THE EQUITY SECURITY IS IN COMMON STOCK, PREFERRED
12 STOCK, AN INTEREST IN A PARTNERSHIP OR LIMITED LIABILITY COMPANY,
13 A SECURITY THAT IS CONVERTIBLE INTO AN EQUITY SECURITY, OR
14 CONVERTIBLE DEBT INVESTMENT;

15 (II) THE INVESTMENT IS AT LEAST TEN THOUSAND DOLLARS; AND

16 (III) THE INVESTMENT IS USED BY THE QUALIFIED BUSINESS IN
17 FURTHERANCE OF RESEARCH, DEVELOPMENT, OR PRODUCTION OF
18 ALTERNATIVE AVIATION FUELS OR ALTERNATIVE AIRCRAFT POWERPLANTS
19 IN THE STATE, INCLUDING ELECTRIC AIRCRAFT PROPULSION SYSTEMS,
20 SUSTAINABLE AVIATION FUEL, HYDROGEN, ALTERNATIVES TO LEADED
21 AVIATION GAS, OR DEVELOPMENT OF RELATED INFRASTRUCTURE IN THE
22 STATE.

23 (f) "QUALIFIED INVESTOR" MEANS A TAXPAYER WHO MAKES A
24 QUALIFIED INVESTMENT IN A QUALIFIED BUSINESS.

25 (3) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
26 1, 2024, BUT BEFORE JANUARY 1, 2033, A QUALIFIED INVESTOR IS
27 ALLOWED A CREDIT AGAINST THE INCOME TAXES IMPOSED BY THIS

1 ARTICLE 22 FOR A QUALIFIED INVESTMENT MADE IN A QUALIFIED BUSINESS
2 IN AN AMOUNT EQUAL TO THIRTY PERCENT OF THE QUALIFIED
3 INVESTMENT; EXCEPT THAT THE MAXIMUM TOTAL AMOUNT OF CREDITS
4 CLAIMED THAT MAY BE ALLOWED TO ALL TAXPAYERS CLAIMING CREDITS
5 IS SEVEN HUNDRED FIFTY THOUSAND DOLLARS FOR THE 2024 INCOME TAX
6 YEAR, ONE MILLION SEVEN HUNDRED FIFTY THOUSAND DOLLARS FOR EACH
7 OF THE 2025 AND 2026 INCOME TAX YEARS, TWO MILLION SEVEN
8 HUNDRED FIFTY THOUSAND DOLLARS FOR THE 2027 INCOME TAX YEAR,
9 AND FOUR MILLION SEVEN HUNDRED FIFTY THOUSAND DOLLARS PER YEAR
10 FOR INCOME TAX YEARS 2028 THROUGH 2032.

11 (4) (a) IN ORDER TO CLAIM THE CREDIT, A QUALIFIED INVESTOR
12 AND A QUALIFIED BUSINESS MUST KEEP RECORDS RELATED TO THE
13 QUALIFIED INVESTMENT AS REQUIRED BY THE DEPARTMENT. THE
14 EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY PROMULGATE RULES TO
15 IMPLEMENT THIS SECTION, INCLUDING RULES TO PRECERTIFY QUALIFIED
16 BUSINESSES ELIGIBLE TO RECEIVE QUALIFIED INVESTMENTS.

17 (b) IN ADDITION TO ANY OTHER REQUIREMENTS BY THE
18 DEPARTMENT, RECORDS MAINTAINED BY THE QUALIFIED INVESTOR MUST
19 SHOW:

20 (I) THE DATE THE QUALIFIED INVESTMENT IS MADE AND THE
21 AMOUNT OF THE INVESTMENT; AND

22 (II) CERTIFICATION THAT THE TAX CREDIT WAS A SIGNIFICANT
23 FACTOR IN THE QUALIFIED INVESTOR'S DECISION TO MAKE THE
24 INVESTMENT AND THAT WITHOUT THE TAX CREDIT, THE QUALIFIED
25 INVESTOR WOULD NOT HAVE MADE THE INVESTMENT OR WOULD HAVE
26 MADE AN INVESTMENT IN A SUBSTANTIALLY LOWER AMOUNT.

27 (c) IN ADDITION TO ANY OTHER REQUIREMENTS SET FORTH BY THE

1 DEPARTMENT, RECORDS MAINTAINED BY THE QUALIFIED BUSINESS MUST
2 SHOW THAT IT IS ELIGIBLE TO RECEIVE QUALIFIED INVESTMENTS UNDER
3 THIS SECTION AND THAT IT HAS USED OR INTENDS TO USE THE QUALIFIED
4 INVESTMENT IN ACCORDANCE WITH SUBSECTION (2)(e)(III) OF THIS
5 SECTION.

6 (d) THE DEPARTMENT MAY REQUEST ADDITIONAL INFORMATION
7 FROM A QUALIFIED INVESTOR OR FROM A QUALIFIED BUSINESS IN ORDER
8 TO DETERMINE ELIGIBILITY FOR THE TAX CREDIT ALLOWED UNDER THIS
9 SECTION. THE DEPARTMENT SHALL DISALLOW THE TAX CREDIT IF THE
10 DEPARTMENT DETERMINES THAT THERE IS A MISREPRESENTATION
11 REGARDING WHETHER THE TAXPAYER CLAIMING THE CREDIT IS A
12 QUALIFIED INVESTOR OR MADE A QUALIFIED INVESTMENT. THE
13 DEPARTMENT SHALL DISALLOW THE TAX CREDIT IF THE DEPARTMENT
14 DETERMINES THAT THERE IS A MISREPRESENTATION REGARDING WHETHER
15 THE INVESTMENT WAS MADE TO A QUALIFIED BUSINESS AND WHETHER THE
16 QUALIFIED INVESTOR KNEW OR SHOULD HAVE KNOWN OF THE
17 MISREPRESENTATION AT ANY TIME BEFORE THE CREDIT WAS CLAIMED. IF
18 THE DEPARTMENT DETERMINES THAT THERE HAS BEEN A
19 MISREPRESENTATION BY A QUALIFIED BUSINESS, THE QUALIFIED BUSINESS
20 LOSES THE PRECERTIFICATION ALLOWED PURSUANT TO SUBSECTION (4)(a)
21 OF THIS SECTION AND THE DEPARTMENT'S RULES, IF APPLICABLE.

22 (e) IN ACCORDANCE WITH THE LIMITATION ON THE MAXIMUM
23 TOTAL AMOUNT OF CREDITS THAT MAY BE CLAIMED FOR AN INCOME TAX
24 YEAR SET FORTH IN SUBSECTION (3) OF THIS SECTION, QUALIFIED
25 INVESTORS ARE ALLOWED THE TAX CREDIT PURSUANT TO THIS SECTION IN
26 THE ORDER IN WHICH THE DEPARTMENT RECEIVES A COMPLETED
27 APPLICATION THAT COMPLIES WITH THE REQUIREMENTS OF THIS SECTION

1 AND ANY OTHER REQUIREMENTS SET FORTH BY THE DEPARTMENT.

2 (5) IF THE CREDIT AUTHORIZED IN THIS SECTION EXCEEDS THE
3 INCOME TAX DUE ON THE INCOME OF THE QUALIFIED INVESTOR FOR THE
4 TAXABLE YEAR, THE EXCESS CREDIT MAY NOT BE CARRIED FORWARD AND
5 SHALL BE REFUNDED TO THE QUALIFIED INVESTOR.

6 (6) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2036.

7 **SECTION 3. Act subject to petition - effective date.** This act
8 takes effect at 12:01 a.m. on the day following the expiration of the
9 ninety-day period after final adjournment of the general assembly; except
10 that, if a referendum petition is filed pursuant to section 1 (3) of article V
11 of the state constitution against this act or an item, section, or part of this
12 act within such period, then the act, item, section, or part will not take
13 effect unless approved by the people at the general election to be held in
14 November 2024 and, in such case, will take effect on the date of the
15 official declaration of the vote thereon by the governor.