

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0691.02 Ed DeCecco x4216

HOUSE BILL 14-1012

HOUSE SPONSORSHIP

Tyler and Gerou,

SENATE SPONSORSHIP

Kefalas,

House Committees

Finance
Appropriations

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A BILL FOR AN ACT

101 CONCERNING INCOME TAX CREDITS THAT PROMOTE INVESTMENT IN
102 COLORADO ADVANCED INDUSTRIES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill repeals the Colorado innovation investment tax credit and replaces it with the advanced industry investment tax credit (tax credit). The tax credit is available for a qualified investor who, prior to January 1, 2018, makes an equity investment in a qualified small business from the advanced industries, which consists of advanced manufacturing,

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

aerospace, bioscience, electronics, energy and natural resources, information technology, and infrastructure engineering. The tax credit is equal to 25% of the investment or, if the qualified business is located in a rural area or economically distressed area, it is equal to 30%. The maximum amount of credit for a single tax credit is \$50,000, and the maximum of all tax credits allowed for a calendar year is \$2 million; except that unused tax credits from 2014 may roll over into 2015. A tax credit may not be refunded, but it may be carried forward for 5 tax years.

The Colorado office of economic development (office) determines the eligibility for the tax credit and issues nontransferable tax credit certificates as evidence of eligibility and the amount of the tax credit. To claim the tax credit, a taxpayer must submit a copy of the tax credit certificate. The office and the department of revenue are required to share information related to the tax credit. In 2017, the office is required to submit to legislative committees a report that includes information about the tax credits issued and the economic benefits from the related qualified investments.

The state treasurer is required to transfer moneys from the repealed innovation investment tax credit cash fund to the newly created advanced industry investment tax credit cash fund. The general assembly shall appropriate any moneys in the fund to the office for the direct and indirect costs associated with the authorizing tax credits.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Growing new high-potential companies in our advanced
5 industries is one of the most promising ways to stimulate the state
6 economy and create high-paying jobs;

7 (b) Access to capital is one of the key challenges facing early
8 stage companies in the advanced industries, and it remains one of the
9 biggest hurdles for those companies getting their products to market;

10 (c) Creating a tax credit based on investment in an advanced
11 industry business reduces some of the risk to investors and thereby draws
12 additional investment dollars for those business;

13 (d) These successfully funded businesses may raise additional

1 capital, produce more revenue, and create more high-paying, high-skill
2 jobs in the state; and

3 (e) Increased investment in Colorado's innovative advanced
4 industry sectors will promote economic growth within the state.

5 (2) Now, therefore, the general assembly hereby declares that the
6 purpose of the tax credit created in this act is to help more Colorado
7 advanced industry companies receive more capital from Colorado
8 investors.

9 **SECTION 2.** In Colorado Revised Statutes, **repeal and reenact,**
10 **with amendments,** 24-48.5-112 as follows:

11 **24-48.5-112. Advanced industry investment tax credit -**
12 **administration - cash fund - definitions - repeal.** (1) AS USED IN THIS
13 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

14 (a) "ADVANCED INDUSTRY" HAS THE SAME MEANING AS SET FORTH
15 IN SECTION 24-48.5-117 (2) (a).

16 (b) "ADVANCED INDUSTRY INVESTMENT TAX CREDIT" OR "TAX
17 CREDIT" MEANS THE CREDIT AGAINST INCOME TAX CREATED IN SECTION
18 39-22-532, C.R.S.

19 (c) "AFFILIATE" MEANS ANY PERSON OR ENTITY THAT CONTROLS,
20 IS CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH ANOTHER
21 PERSON OR ENTITY. FOR PURPOSES OF THIS PARAGRAPH (c), "CONTROL"
22 MEANS THE POWER TO DETERMINE THE POLICIES OF AN ENTITY WHETHER
23 THROUGH OWNERSHIP OF VOTING SECURITIES, BY CONTRACT, OR
24 OTHERWISE.

25 (d) "OFFICE" MEANS THE COLORADO OFFICE OF ECONOMIC
26 DEVELOPMENT CREATED IN SECTION 24-48.5-101.

27 (e) "QUALIFIED INVESTMENT" MEANS AN INVESTMENT MADE AT

1 ANY TIME ON OR AFTER JULY 1, 2014, BUT BEFORE JANUARY 1, 2018, IN AN
2 EQUITY SECURITY THAT MEETS ALL OF THE FOLLOWING REQUIREMENTS:

3 (I) THE EQUITY SECURITY IS COMMON STOCK, PREFERRED STOCK,
4 AN INTEREST IN A PARTNERSHIP OR LIMITED LIABILITY COMPANY, A
5 SECURITY THAT IS CONVERTIBLE INTO AN EQUITY SECURITY, A
6 CONVERTIBLE DEBT INVESTMENT, OR OTHER EQUITY SECURITY AS
7 DETERMINED BY THE OFFICE;

8 (II) THE INVESTMENT IS AT LEAST TWENTY-FIVE THOUSAND
9 DOLLARS;

10 (III) THE QUALIFIED INVESTOR AND ITS AFFILIATES DO NOT HOLD,
11 OF RECORD OR BENEFICIALLY, IMMEDIATELY BEFORE MAKING AN
12 INVESTMENT, EQUITY SECURITIES POSSESSING MORE THAN THIRTY
13 PERCENT OF THE TOTAL VOTING POWER OF ALL EQUITY SECURITIES OF THE
14 QUALIFIED SMALL BUSINESS; AND

15 (IV) THE QUALIFIED INVESTOR AND ITS AFFILIATES HOLD, OF
16 RECORD OR BENEFICIALLY, IMMEDIATELY AFTER MAKING THE
17 INVESTMENT, EQUITY SECURITIES POSSESSING LESS THAN FIFTY PERCENT
18 OF THE TOTAL VOTING POWER OF ALL EQUITY SECURITIES OF THE
19 QUALIFIED SMALL BUSINESS.

20 (f) "QUALIFIED INVESTOR" MEANS AN INDIVIDUAL, LIMITED
21 LIABILITY COMPANY, PARTNERSHIP, S CORPORATION, AS DEFINED IN
22 SECTION 39-22-103 (10.5), C.R.S., OR OTHER BUSINESS ENTITY THAT
23 MAKES A QUALIFIED INVESTMENT IN A QUALIFIED SMALL BUSINESS.
24 "QUALIFIED INVESTOR" DOES NOT INCLUDE A C CORPORATION, AS DEFINED
25 IN SECTION 39-22-103 (2.5), C.R.S.

26 (g) "QUALIFIED SMALL BUSINESS" MEANS A CORPORATION,
27 LIMITED LIABILITY COMPANY, PARTNERSHIP, OR OTHER BUSINESS ENTITY

1 THAT:

2 (I) IS IN AN ADVANCED INDUSTRY;

3 (II) HAS ITS HEADQUARTERS LOCATED IN COLORADO OR HAS AT
4 LEAST FIFTY PERCENT OF ITS EMPLOYEES BASED IN COLORADO;

5 (III) HAS RECEIVED LESS THAN TEN MILLION DOLLARS FROM
6 THIRD-PARTY INVESTORS, NOT INCLUDING GRANTS, SINCE THE BUSINESS
7 WAS FORMED;

8 (IV) HAS ANNUAL REVENUES OF LESS THAN FIVE MILLION
9 DOLLARS; AND

10 (V) HAS BEEN ACTIVELY OPERATING AND GENERATING REVENUE
11 FOR LESS THAN FIVE YEARS.

12 (2) (a) THE OFFICE SHALL RECEIVE AND EVALUATE APPLICATIONS
13 THAT ARE SUBMITTED BY QUALIFIED INVESTORS TO RECEIVE AN
14 ADVANCED INDUSTRY INVESTMENT TAX CREDIT FOR QUALIFIED
15 INVESTMENTS MADE IN A QUALIFIED SMALL BUSINESS.

16 (b) TO BE ELIGIBLE FOR AN ADVANCED INDUSTRY INVESTMENT TAX
17 CREDIT, A QUALIFIED INVESTOR MUST FILE A COMPLETED APPLICATION
18 WITH THE OFFICE WITHIN NINETY DAYS AFTER MAKING A QUALIFIED
19 INVESTMENT. THE OFFICE SHALL PRESCRIBE THE MANNER AND FORM OF
20 THE APPLICATION. THE OFFICE SHALL NOTE THE TIME AND DATE OF EACH
21 APPLICATION RECEIVED. IN ADDITION TO ANY OTHER REQUIREMENTS
22 ESTABLISHED BY THE OFFICE, THE APPLICATION MUST INCLUDE THE NAME,
23 ADDRESS, AND FEDERAL INCOME TAX IDENTIFICATION NUMBER OF THE
24 APPLICANT, THE NUMBER OF NEW EMPLOYEES HIRED BY THE QUALIFIED
25 SMALL BUSINESS AS A RESULT OF THE QUALIFIED INVESTMENT, AND ANY
26 ADDITIONAL INFORMATION THAT THE OFFICE REQUIRES.

27 (c) A BUSINESS MAY REQUEST THE OFFICE TO DETERMINE

1 WHETHER IT IS A QUALIFIED SMALL BUSINESS. UPON RECEIVING SUCH
2 REQUEST OR UPON RECEIPT OF AN APPLICATION FOR AN ADVANCED
3 INDUSTRY INVESTMENT TAX CREDIT FROM A QUALIFIED INVESTOR, THE
4 OFFICE SHALL DETERMINE WHETHER THE BUSINESS THAT IS NAMED IN THE
5 APPLICATION OR WRITTEN REQUEST IS A QUALIFIED SMALL BUSINESS.
6 AFTER DETERMINING THE QUALIFICATIONS, THE OFFICE SHALL CERTIFY
7 THE QUALIFIED SMALL BUSINESS AS BEING ELIGIBLE TO RECEIVE QUALIFIED
8 INVESTMENTS FOR PURPOSES OF THIS SECTION. THE CERTIFICATION FOR A
9 QUALIFIED SMALL BUSINESS THAT IS CERTIFIED AFTER JULY 1, 2014, IS
10 VALID UNTIL JANUARY 1, 2018; EXCEPT THAT THE CERTIFICATION IS
11 REVOKED IF THE BUSINESS NO LONGER MEETS THE QUALIFICATIONS. A
12 BUSINESS SHALL NOTIFY THE OFFICE WITHIN THIRTY BUSINESS DAYS FROM
13 THE DATE THAT IT NO LONGER MEETS THE QUALIFICATIONS. IF THE
14 CERTIFICATION IS REVOKED, THE OFFICE MAY ASSESS A PENALTY AGAINST
15 THE BUSINESS THAT IS EQUAL TO THE AMOUNT OF THE ADVANCED
16 INDUSTRY INVESTMENT TAX CREDITS AUTHORIZED AFTER THE DATE THAT
17 THE BUSINESS NO LONGER MEETS THE QUALIFICATIONS. THE STATE
18 TREASURER SHALL DEPOSIT THE PENALTY INTO THE STATE GENERAL FUND.
19 IF THE CERTIFICATION IS REVOKED, SUBSEQUENT INVESTMENTS IN THE
20 BUSINESS DO NOT QUALIFY FOR A TAX CREDIT. ALL TAX CREDITS ISSUED
21 BEFORE THE REVOCATION OF THE CERTIFICATION SHALL REMAIN VALID.
22 THE OFFICE SHALL NOT DENY ANY APPLICATION FOR A TAX CREDIT ON THE
23 BASIS OF THE REVOCATION OF THE CERTIFICATION IF THE INVESTMENT WAS
24 MADE BEFORE THE DATE OF THE REVOCATION.

25 (d) AS PART OF THE APPLICATION FOR AN ADVANCED INDUSTRY
26 INVESTMENT TAX CREDIT, THE APPLICANT AND THE QUALIFIED SMALL
27 BUSINESS THAT RECEIVES THE INVESTMENT MUST EACH PROVIDE WRITTEN

1 AUTHORIZATION TO PERMIT THE DEPARTMENT OF REVENUE TO PROVIDE
2 TAX INFORMATION TO THE OFFICE FOR THE PURPOSE OF DETERMINING IF
3 THERE ARE ANY MISREPRESENTATIONS ON THE APPLICATION. THE
4 AUTHORIZATION IS LIMITED TO DISCLOSURE OF INCOME TAX INFORMATION
5 FOR THE LATEST TWO YEARS FOR WHICH RETURNS WERE FILED WITH THE
6 DEPARTMENT OF REVENUE PRECEDING THE DATE THE APPLICATION IS
7 FILED AND FOR ALL TAX YEARS THROUGH THE YEAR IN WHICH THE
8 INVESTMENT WAS MADE FOR WHICH A RETURN WAS NOT FILED AS OF THE
9 DATE OF THE APPLICATION. THE APPLICANT MUST ALSO PROVIDE IN THE
10 WRITTEN AUTHORIZATION INCOME TAX INFORMATION FOR ALL TAX YEARS
11 IN WHICH THE APPLICANT ACTUALLY CLAIMS A TAX CREDIT OR CARRIES
12 FORWARD A TAX CREDIT ON A RETURN FILED WITH THE DEPARTMENT OF
13 REVENUE. AN APPLICANT WITH AN INDIVIDUAL OWNERSHIP INTEREST AS
14 A CO-OWNER OF A BUSINESS AND THAT MAY BE ENTITLED TO A PRO RATA
15 SHARE OF THE TAX CREDIT PURSUANT TO SECTION 39-22-532 (5), C.R.S.,
16 MUST PROVIDE A WRITTEN AUTHORIZATION WITH CONTENT SIMILAR TO
17 THE AUTHORIZATION, AND IN THE SAME MANNER, AS ANY OTHER
18 APPLICANT IS REQUIRED TO PROVIDE. IF AN APPLICANT OR QUALIFIED
19 SMALL BUSINESS FAILS TO COMPLY WITH THIS PARAGRAPH (d), AN
20 APPLICANT IS INELIGIBLE FOR A TAX CREDIT.

21 (e) AS PART OF THE APPLICATION FOR AN ADVANCED INDUSTRY
22 INVESTMENT TAX CREDIT, THE APPLICANT MUST STATE THAT THE TAX
23 CREDIT WAS A SIGNIFICANT FACTOR IN THE APPLICANT'S DECISION TO
24 MAKE THE INVESTMENT AND THAT WITHOUT THE TAX CREDIT, THE
25 APPLICANT WOULD NOT HAVE MADE THE INVESTMENT OR WOULD HAVE
26 MADE AN INVESTMENT AT A SUBSTANTIALLY LOWER LEVEL.

27 (f) THE OFFICE SHALL REVIEW AND MAKE A DETERMINATION WITH

1 RESPECT TO EACH APPLICATION FOR AN ADVANCED INDUSTRY
2 INVESTMENT TAX CREDIT WITHIN NINETY DAYS AFTER RECEIVING THE
3 APPLICATION. THE OFFICE MAY REQUEST ADDITIONAL INFORMATION FROM
4 THE APPLICANT IN ORDER TO MAKE AN INFORMED DECISION REGARDING
5 THE ELIGIBILITY OF THE QUALIFIED INVESTOR OR QUALIFIED SMALL
6 BUSINESS.

7 (3) (a) SUBJECT TO THE LIMITATIONS SET FORTH IN PARAGRAPH (b)
8 OF THIS SUBSECTION (3), THE OFFICE SHALL AUTHORIZE AN ADVANCED
9 INDUSTRY INVESTMENT TAX CREDIT FOR EACH QUALIFIED INVESTOR WHO
10 MAKES A QUALIFIED INVESTMENT IN A QUALIFIED SMALL BUSINESS. THE
11 AMOUNT OF THE TAX CREDIT IS TWENTY-FIVE PERCENT OF THE AMOUNT OF
12 THE QUALIFIED INVESTMENT OR THIRTY PERCENT OF THE QUALIFIED
13 INVESTMENT IF THE QUALIFIED SMALL BUSINESS IS LOCATED IN A RURAL
14 AREA OR ECONOMICALLY DISTRESSED AREA OF THE STATE AS DETERMINED
15 BY THE OFFICE. THE OFFICE SHALL ISSUE A TAX CREDIT CERTIFICATE TO
16 THE QUALIFIED INVESTOR FOR EACH QUALIFIED INVESTMENT STATING THE
17 AMOUNT OF THE TAX CREDIT THAT IS AUTHORIZED FOR PURPOSES OF
18 SECTION 39-22-532, C.R.S. A TAX CREDIT CERTIFICATE IS
19 NONTRANSFERABLE. THE OFFICE SHALL CERTIFY TO THE DEPARTMENT OF
20 REVENUE THE NAME OF EACH QUALIFIED INVESTOR WHO RECEIVES A TAX
21 CREDIT CERTIFICATE, THE AMOUNT OF THE TAX CREDIT, AND OTHER
22 RELEVANT INFORMATION RELATING TO THE TAX CREDIT.

23 (b) (I) THE TOTAL AMOUNT OF THE ADVANCED INDUSTRY
24 INVESTMENT TAX CREDITS SHALL NOT EXCEED ONE MILLION DOLLARS FOR
25 THE 2014 CALENDAR YEAR AND TWO MILLION DOLLARS FOR EACH OF THE
26 2015, 2016, AND 2017 CALENDAR YEARS; EXCEPT THAT THE AMOUNT OF
27 TAX CREDITS THAT WERE NOT AUTHORIZED FOR 2014 MAY BE ALLOCATED

1 TO 2015. THE OFFICE SHALL AUTHORIZE THE TAX CREDITS IN THE ORDER
2 THAT APPLICATIONS ARE RECEIVED BY THE OFFICE AND SHALL DENY ANY
3 APPLICATION RECEIVED AFTER THE LIMIT HAS BEEN MET. THE OFFICE MAY
4 PARTIALLY AUTHORIZE THE LAST TAX CREDIT THAT IS AWARDED UP TO
5 THE LIMIT.

6 (II) THE TOTAL AMOUNT OF THE TAX CREDIT FOR EACH QUALIFIED
7 INVESTMENT SHALL NOT EXCEED FIFTY THOUSAND DOLLARS. A QUALIFIED
8 INVESTOR MAY NOT CLAIM MORE THAN ONE TAX CREDIT PER QUALIFIED
9 SMALL BUSINESS, BUT MAY BE ELIGIBLE FOR A TAX CREDIT FOR QUALIFIED
10 INVESTMENTS IN DIFFERENT QUALIFIED SMALL BUSINESSES IN THE SAME
11 OR A DIFFERENT YEAR.

12 (c) TO CLAIM AN ADVANCED INDUSTRY INVESTMENT TAX CREDIT,
13 A QUALIFIED INVESTOR MUST SUBMIT A COPY OF EACH TAX CREDIT
14 CERTIFICATE AS PART OF A TAX RETURN TO THE DEPARTMENT OF REVENUE
15 IN ACCORDANCE WITH SECTION 39-22-532 (3), C.R.S., BY THE DUE DATE
16 OF THE RETURN, INCLUDING EXTENSIONS, FOR THE TAX YEAR DURING
17 WHICH THE QUALIFIED INVESTMENT WAS MADE. IF THE QUALIFIED
18 INVESTOR FAILS TO TIMELY FILE THE TAX CREDIT CERTIFICATE, THE TAX
19 CREDIT EXPIRES FOR THAT TAXABLE YEAR AND THERE IS NO CARRY
20 FORWARD OF THE EXPIRED TAX CREDIT. THE OFFICE SHALL NOT REISSUE
21 A TAX CREDIT CERTIFICATE FOR A CREDIT THAT EXPIRES OR THAT
22 OTHERWISE IS NOT TIMELY USED BY THE QUALIFIED INVESTOR.

23 (4) NO LATER THAN APRIL 30 OF EACH YEAR FOLLOWING A YEAR
24 DURING WHICH THE OFFICE AUTHORIZES AN ADVANCED INDUSTRY
25 INVESTMENT TAX CREDIT, THE OFFICE SHALL PROVIDE TO THE
26 DEPARTMENT OF REVENUE AN ELECTRONIC REPORT THAT INCLUDES THE
27 INFORMATION SET FORTH IN PARAGRAPH (b) OF SUBSECTION (2) AND

1 PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION AND ANY OTHER
2 INFORMATION REQUIRED TO ADMINISTER SECTION 39-22-532, C.R.S. IF
3 THE OFFICE SUBSEQUENTLY DISCOVERS THAT AN APPLICANT WHO
4 RECEIVED A TAX CREDIT MISREPRESENTED INFORMATION ON THE
5 APPLICATION, THE OFFICE SHALL IMMEDIATELY NOTIFY THE DEPARTMENT
6 OF REVENUE AND PROVIDE THE DEPARTMENT OF REVENUE ALL
7 INFORMATION THAT RELATES TO THAT APPLICANT.

8 (5) THE STATE TREASURER SHALL TRANSFER THE UNEXPENDED
9 AND UNENCUMBERED MONEYS THAT WERE IN THE INNOVATION
10 INVESTMENT TAX CREDIT CASH FUND ON THE EFFECTIVE DATE OF THIS
11 SECTION, AS AMENDED, TO THE ADVANCED INDUSTRY INVESTMENT TAX
12 CREDIT CASH FUND, WHICH IS CREATED IN THE STATE TREASURY. THE
13 GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE MONEYS IN THE
14 FUND TO THE OFFICE FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED
15 WITH THE ADMINISTRATION OF THIS SECTION. ANY MONEYS IN THE FUND
16 NOT EXPENDED FOR SUCH PURPOSE MAY BE INVESTED BY THE STATE
17 TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED
18 FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE
19 CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS
20 REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN
21 THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE
22 GENERAL FUND OR ANY OTHER FUND.

23 (6) ON NOVEMBER 1, 2017, THE OFFICE OF ECONOMIC
24 DEVELOPMENT SHALL SUBMIT A REPORT TO THE FINANCE AND THE
25 BUSINESS, LABOR, AND ECONOMIC AND WORKFORCE DEVELOPMENT
26 COMMITTEES OF THE HOUSE OF REPRESENTATIVES; TO THE BUSINESS,
27 LABOR, AND TECHNOLOGY AND THE FINANCE COMMITTEES OF THE SENATE,

1 OR ANY SUCCESSOR COMMITTEES; AND TO THE JOINT BUDGET COMMITTEE
2 SUMMARIZING ALL OF THE TAX CERTIFICATES ISSUED SINCE JULY 1, 2014.
3 AT A MINIMUM, THE REPORT MUST INCLUDE THE AMOUNT OF THE CAPITAL
4 INVESTED BY QUALIFIED INVESTORS AND THE TAX CREDIT THAT EACH
5 QUALIFIED INVESTOR RECEIVED, A DESCRIPTION OF THE QUALIFIED
6 BUSINESSES THAT RECEIVED THE QUALIFIED INVESTMENT, THE NUMBER OF
7 NEW EMPLOYEES HIRED BY THE QUALIFIED SMALL BUSINESSES AS A
8 RESULT OF THE QUALIFIED INVESTMENT, THE GEOGRAPHIC DISTRIBUTION
9 OF THE JOBS, AND ANY OTHER ECONOMIC IMPACTS THAT RESULTED FROM
10 THE GRANT.

11 **SECTION 3.** In Colorado Revised Statutes, 39-22-532, **amend**
12 (1) (a), (2), (3), (4), and (6) as follows:

13 **39-22-532. Advanced industry investment tax credit -**
14 **definitions.** (1) As used in this section, unless the context otherwise
15 requires:

16 (a) ~~"Colorado innovation investment tax credit"~~ "ADVANCED
17 INDUSTRY INVESTMENT TAX CREDIT" or "tax credit" means the credit
18 against income tax created in this section.

19 (2) There shall be allowed ~~a Colorado innovation~~ AN ADVANCED
20 INDUSTRY investment tax credit against the income taxes imposed
21 pursuant to this article for a qualified investment in a qualified small
22 business. The amount of the credit is the amount determined and
23 authorized by the Colorado office of economic development pursuant to
24 section 24-48.5-112, C.R.S., and set forth in a tax credit certificate.

25 (3) To claim the ~~Colorado innovation~~ ADVANCED INDUSTRY
26 investment tax credit, the taxpayer shall attach to the taxpayer's tax return
27 a copy of the tax credit certificate. No tax credit is allowed under this

1 section unless the taxpayer provides the copy of the tax credit certificate.

2 (4) If the allowable ~~Colorado innovation~~ ADVANCED INDUSTRY
3 investment tax credit exceeds the amount of income tax due on the
4 income of the taxpayer for the tax year during which the qualified
5 investment was made, the amount of the tax credit not used as an offset
6 against income taxes in such income tax year ~~shall not be~~ IS NOT allowed
7 as a refund. ~~but may be carried forward and applied~~ THE TAXPAYER MAY
8 CARRY FORWARD AND APPLY THE UNUSED CREDIT against the income tax
9 due in each of the five succeeding income tax years, but THE TAXPAYER
10 shall ~~be first applied~~ APPLY THE CREDIT against the income tax due for the
11 earliest of the income tax years possible. Any amount of the tax credit that
12 is not used after ~~said~~ THIS period ~~shall not be~~ IS NOT refundable.

13 (6) If the department of revenue determines that there has been a
14 misrepresentation on an application submitted to the Colorado office of
15 economic development pursuant to section 24-48.5-112, C.R.S., the
16 department of revenue shall deny the ~~Colorado innovation~~ ADVANCED
17 INDUSTRY investment tax credit if the misrepresentation relates to whether
18 the applicant was a qualified investor or made a qualified investment. If
19 the misrepresentation relates to whether the investment was made to a
20 qualified small business, the department of revenue shall deny the tax
21 credit only if the applicant knew or should have known at any time before
22 the certification that the representation was false.

23 **SECTION 4. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.