HOUSE BILL 17-1090

A BILL FOR AN ACT

CONCERNING THE ADVANCED INDUSTRY INVESTMENT TAX CREDIT.

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/)

A qualified investor who, prior to January 1, 2018, makes an equity investment in a qualified small business from an advanced industry is allowed an income tax credit that is equal to a percentage of the investment, up to a maximum credit of $50,000. The Colorado office of economic development (office) determines the eligibility for the tax credits and issues nontransferable tax credit certificates that are used to claim the credit. The maximum amount of tax credits allowed for a calendar year is $750,000.
The bill extends the credit by allowing qualified investments made on or after January 1, 2018, but prior to January 1, 2023, to qualify for the tax credit. For those years, the total maximum amount of credits for a calendar year is increased to $1.5 million; except that, if the office authorizes less than this amount in a year, then the remaining, unused credits are added to the next year's total maximum amount. In addition, the definition of "qualified small business" is expanded to include a company that has annual revenues of less than $5 million or that has been actively operating and generating revenue for less than 5 years. Currently, a business must meet both criteria, in addition to other criteria that will continue to apply.

The advanced industry investment tax credit cash fund, which was started with money transferred from another cash fund and has no current revenue source, is repealed.

In 2022, the office is required to submit to legislative committees a report that includes information about the tax credits issued after January 1, 2018, and the economic benefits from the related qualified investments.

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

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

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

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

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

(d) These successfully funded businesses may raise additional capital, produce more revenue, and create more high-paying, high-skill jobs in the state; and
(e) Increased investment in Colorado's innovative advanced industry sectors will promote economic growth within the state.

(2) Now, therefore, the general assembly hereby declares that its purpose in extending and expanding the expiring tax credit in this act is to help more Colorado advanced industry companies receive more capital from Colorado investors.

SECTION 2. In Colorado Revised Statutes, 24-48.5-112, amend (1)(e) introductory portion, (1)(g)(III), (1)(g)(IV), (2)(c), (3)(b)(I), and (6); and repeal (1)(g)(V) and (5) as follows:

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

(e) "Qualified investment" means an investment made at any time on or after July 1, 2014, but before January 1, 2018, in an equity security that meets all of the following requirements:

(g) "Qualified small business" means a corporation, limited liability company, partnership, or other business entity that:

(III) Has received less than ten million dollars from third-party investors, not including grants, since the business was formed; AND

(IV) Has annual revenues of less than five million dollars and OR HAS BEEN ACTIVELY OPERATING AND GENERATING REVENUE FOR LESS THAN FIVE YEARS.

(V) Has been actively operating and generating revenue for less than five years.

(2) (c) A business may request the office to determine whether it is a qualified small business. Upon receiving such THE request or upon receipt of an application for an advanced industry investment tax credit
from a qualified investor, the office shall determine whether the business
that is named in the application or written request is a qualified small
business. After determining the qualifications, the office shall certify the
qualified small business as being eligible to receive qualified investments
for purposes of this section. The certification for a qualified small
business that is certified after July 1, 2014, is valid until January 1, 2018;
except that the certification is revoked if the business
no longer meets the qualifications. A business shall notify the office
within thirty business days from the date that it no longer meets the
qualifications. If the certification is revoked, the office may assess a
penalty against the business that is equal to the amount of the advanced
industry investment tax credits authorized after the date that the business
no longer meets the qualifications. The state treasurer shall deposit the
penalty into the state general fund. If the certification is revoked,
subsequent investments in the business do not qualify for a tax credit. All
tax credits issued before the revocation of the certification shall remain
valid. The office shall not deny any application for a tax credit on the
basis of the revocation of the certification if the investment was made
before the date of the revocation.

(3) (b) (I) The total amount of the advanced industry investment
tax credits shall not exceed three hundred seventy-five thousand dollars
for the 2014 calendar year; and seven hundred fifty thousand dollars for
each of the 2015, 2016, and 2017 calendar years; except that the amount
of tax credits that were not authorized for 2014 may be allocated to
and one million five hundred thousand dollars for each of the
calendar years from 2018 to 2022; except that, if the total
amount of the credits for 2018 or a later calendar year is less
THAN THE MAXIMUM AMOUNT, THEN THE MAXIMUM AMOUNT FOR THE
NEXT YEAR IS INCREASED BY AN AMOUNT EQUAL TO THE REMAINING,
UNUSED TAX CREDITS FROM THE PRIOR YEAR. The office shall authorize
the tax credits in the order that applications are received by the office and
shall deny any application received after the limit has been met. The
office may partially authorize the last tax credit that is awarded up to the
limit.

(5) The state treasurer shall transfer the unexpended and
unencumbered moneys that were in the innovation investment tax credit
cash fund on May 29, 2014, to the advanced industry investment tax
credit cash fund, which is created in the state treasury. The general
assembly shall annually appropriate moneys in the fund to the office for
the direct and indirect costs associated with the administration of this
section. Any moneys in the fund not expended for such purpose may be
invested by the state treasurer as provided by law. All interest and income
derived from the investment and deposit of moneys in the fund shall be
erelated to the fund. Any unexpended and unencumbered moneys
remaining in the fund at the end of a fiscal year shall remain in the fund
and shall not be credited or transferred to the general fund or any other
fund.

(6) On November 1, 2017, the office of economic development
shall submit a FIRST report to the finance and the business, labor, and
economic and workforce development committees of the house of
representatives; to the business, labor, and technology and the finance
committees of the senate, or any successor committees; and to the joint
budget committee summarizing all of the tax certificates issued since July
1, 2014. At a minimum, the report must include the amount of the capital
invested by qualified investors and the tax credit that each qualified investor received, a description of the qualified businesses that received the qualified investment, a projection of the number of new employees hired by the qualified small businesses as a result of the qualified investment, the geographic distribution of the jobs, and any other economic impacts that resulted from the grant QUALIFIED INVESTMENT.

Notwithstanding section 24-1-136 (11), the office shall submit a second report on November 1, 2022, to the same legislative committees summarizing all of the tax certificates issued after January 1, 2018. The second report must include the same information as the first report.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.