

**Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 22-1003.02 Megan McCall x4215

HOUSE BILL 22-1418

HOUSE SPONSORSHIP

Herod and McCluskie, Ransom

SENATE SPONSORSHIP

Hansen and Zenzinger, Rankin

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE EXTENSION OF THE PERIOD FOR WHICH UNUSED AND**
102 **EXPIRING COLORADO JOB GROWTH INCENTIVE AND ENTERPRISE**
103 **ZONE INCOME TAX CREDITS MAY BE CARRIED FORWARD TO**
104 **SUBSEQUENT YEARS.**

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/>.)

Joint Budget Committee. The bill allows a taxpayer who operates in a strategic industry disproportionately impacted by the COVID-19 pandemic and who experienced significant financial hardship due to the

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.

COVID-19 pandemic to apply to the economic development commission (commission) for a 5-year extension of the allowable carry-forward period for unused Colorado job growth incentive tax credits and unused enterprise zone tax credits that would otherwise expire between January 1, 2021, and December 31, 2025; except that the tax credit for contributions to enterprise zone administrators to implement economic development plans is not eligible for the 5-year carry-forward extension. The bill requires the commission, in consultation with the office of economic development, to establish a process for accepting, reviewing, and approving one-time applications by taxpayers for the extended carry-forward period subject to taxpayers meeting certain eligibility requirements. The bill caps the total amount of tax credits allowed to be carried forward in the extended period at \$15 million per year.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 24-46-106 as
3 follows:

4 **24-46-106. Repeal of part.** This part 1 is repealed, effective July
5 ~~1, 2025~~ JULY 1, 2035.

6 **SECTION 2.** In Colorado Revised Statutes, **add** 24-46-107 as
7 follows:

8 **24-46-107. Temporary extension of carry-forward provisions**
9 **- Colorado job growth incentive tax credit - enterprise zone tax**
10 **credits - definitions - repeal.** (1) AS USED IN THIS SECTION, UNLESS THE
11 CONTEXT OTHERWISE REQUIRES:

12 (a) "OFFICE" MEANS THE COLORADO OFFICE OF ECONOMIC
13 DEVELOPMENT CREATED IN SECTION 24-48.5-101.

14 (b) (I) "TAXPAYER" MEANS ANY PERSON DOING BUSINESS IN THE
15 STATE, INCLUDING AN AFFILIATED GROUP, THAT OPERATES IN A STRATEGIC
16 INDUSTRY THAT WAS DISPROPORTIONALLY IMPACTED BY THE COVID-19
17 PANDEMIC AND EXPERIENCED SIGNIFICANT FINANCIAL HARDSHIP CAUSED
18 BY THE COVID-19 PANDEMIC.

1 (II) "STRATEGIC INDUSTRY" AND "SIGNIFICANT FINANCIAL
2 HARDSHIP" FOR PURPOSES OF THE DEFINITION OF "TAXPAYER" IN
3 SUBSECTION (1)(b)(I) OF THIS SECTION SHALL BE DETERMINED BY THE
4 COMMISSION AND THE OFFICE. WHEN DETERMINING SIGNIFICANT
5 FINANCIAL HARDSHIP, ANY FINANCIAL ASSISTANCE OR RELIEF THAT THE
6 TAXPAYER MAY HAVE RECEIVED FROM OTHER SOURCES INCLUDING
7 FEDERAL, STATE, OR LOCAL ASSISTANCE MAY BE CONSIDERED BUT SHALL
8 NOT BE DISPOSITIVE FOR PURPOSES OF ELIGIBILITY.

9 (2) THE COMMISSION MAY ALLOW A TAXPAYER TO CARRY
10 FORWARD FOR A PERIOD OF FIVE YEARS THE TAX CREDITS SET FORTH IN
11 SECTION 39-22-531 AND IN ARTICLE 30 OF TITLE 39 THAT WOULD
12 OTHERWISE EXPIRE BETWEEN JANUARY 1, 2021, AND DECEMBER 31, 2025;
13 EXCEPT THAT THE AGGREGATE AMOUNT OF ALL TAX CREDITS PERMITTED
14 TO BE CARRIED FORWARD PURSUANT TO THIS SUBSECTION (2) IS ZERO
15 DOLLARS FOR THE FIRST TWO YEARS IN THE FIVE-YEAR PERIOD, TEN
16 MILLION DOLLARS FOR THE THIRD YEAR IN THE FIVE-YEAR PERIOD, AND
17 FIFTEEN MILLION DOLLARS FOR THE FOURTH AND FIFTH YEAR IN THE
18 FIVE-YEAR PERIOD AND THE TAX CREDIT SET FORTH IN SECTION
19 39-30-103.5 IS NOT ELIGIBLE FOR THE FIVE-YEAR CARRY-FORWARD PERIOD
20 SET FORTH IN THIS SECTION. TAXPAYERS MUST APPLY TO THE COMMISSION
21 AND THE OFFICE PURSUANT TO SUBSECTION (3) OF THIS SECTION FOR
22 APPROVAL TO CARRY FORWARD THE TAX CREDITS AS SET FORTH IN THIS
23 SUBSECTION (2).

24 (3) (a) A TAXPAYER MAY APPLY FOR APPROVAL BY THE
25 COMMISSION TO CARRY FORWARD A TAX CREDIT AS SET FORTH IN
26 SUBSECTION (2) OF THIS SECTION IN ACCORDANCE WITH TIMING,
27 DEADLINES, POLICIES, AND PROCEDURES ESTABLISHED BY THE

1 COMMISSION, IN CONSULTATION WITH THE OFFICE, AND AS FOLLOWS:

2 (I) A TAXPAYER SHALL APPLY ONE TIME TO THE COMMISSION FOR
3 THE EXTENDED CARRY-FORWARD PERIOD SET FORTH IN SUBSECTION (2) OF
4 THIS SECTION AND MUST IDENTIFY IN THE APPLICATION ALL OF THE
5 ANTICIPATED CREDITS THAT THE TAXPAYER REQUESTS TO EXTEND FOR
6 EACH TAX YEAR THAT THE EXTENDED PERIOD APPLIES TO;

7 (II) AT A MINIMUM, THE APPLICATION MUST INCLUDE
8 CERTIFICATION BY THE TAXPAYER'S PRESIDENT, CHIEF EXECUTIVE
9 OFFICER, OR CHIEF FINANCIAL OFFICER THAT, BASED ON THE TAXPAYER'S
10 CURRENT AND EXPECTED FINANCIAL RESULTS, IT IS ANTICIPATED THAT THE
11 TAXPAYER WILL NOT BE ABLE TO USE THE TAX CREDITS BEFORE THE
12 CREDITS EXPIRE AS THE RESULT OF LOSSES EXPERIENCED DURING TAX
13 YEARS 2020 AND 2021 DUE TO THE COVID-19 PANDEMIC;

14 (III) THE APPLICATION MUST INCLUDE DOCUMENTATION FROM THE
15 TAXPAYER DEMONSTRATING SIGNIFICANT FINANCIAL HARDSHIP CAUSED
16 BY THE COVID-19 PANDEMIC; AND

17 (IV) IN CONSULTATION WITH POTENTIAL APPLICANTS, THE
18 COMMISSION AND THE OFFICE SHALL DETERMINE ADDITIONAL
19 APPROPRIATE POLICIES, PROCEDURES, REQUIREMENTS, AND DEADLINES TO
20 ADMINISTER THE APPLICATION PROCESS AND EXTENSION APPROVALS
21 PURSUANT TO THIS SECTION, WHICH MAY INCLUDE ADDITIONAL
22 VERIFICATION PROCEDURES TO DEMONSTRATE THAT APPLICANTS ARE
23 MAKING BONAFIDE REQUESTS FOR THE FIVE-YEAR EXTENSION.

24 (b) IN CONSULTATION WITH THE OFFICE, THE COMMISSION SHALL
25 RECEIVE, REVIEW, AND APPROVE APPLICATIONS BY TAXPAYERS ON A FIRST
26 COME, FIRST SERVED, ROLLING BASIS. IN ADDITION TO THE APPLICATION
27 REQUIREMENTS SET FORTH IN SUBSECTION (3)(a) OF THIS SECTION, THE

1 COMMISSION MAY CONSIDER ADDITIONAL ECONOMIC DEVELOPMENT
2 COMMITMENTS TO THE STATE BY THE TAXPAYER IN DETERMINING
3 APPROVAL OF APPLICATIONS INCLUDING:

4 (I) THE SIZE OF THE TAXPAYER'S CURRENT OPERATION IN THE
5 STATE RELATIVE TO BOTH THE STATE AS A WHOLE AND THE REGION THE
6 TAXPAYER IS BASED IN;

7 (II) ANY STRATEGIC ECONOMIC DEVELOPMENT BENEFITS THAT THE
8 TAXPAYER PROVIDES WITH EXISTING OPERATIONS TO THE STATE IN TERMS
9 OF SUPPLY CHAIN, BENEFITS TO OTHER INDUSTRIES, OR OTHER SPILLOVER
10 BENEFITS THAT THE APPLICANT'S OPERATIONS PROVIDE TO THE STATE OR
11 REGION; AND

12 (III) ANY ADDITIONAL FORTHCOMING ECONOMIC DEVELOPMENT
13 BENEFITS THAT THE TAXPAYER MAY PROVIDE TO THE STATE OR REGION
14 BASED ON COMMITMENTS THAT THE APPLICANT HAS RECENTLY MADE OR
15 PROPOSES THAT ARE OUTSIDE THE SCOPE OF THE ORIGINAL INCENTIVE
16 AWARD.

17 (c) WHEN AN APPLICATION IS APPROVED, THE COMMISSION SHALL
18 ISSUE LETTERS TO THE DEPARTMENT OF REVENUE AND APPROVED
19 TAXPAYERS THAT MUST SPECIFY THE TYPE AND AMOUNT OF CREDITS
20 ELIGIBLE FOR THE FIVE-YEAR EXTENSION AND FOR WHAT YEARS IN THE
21 PERIOD THE EXTENSION IS ELIGIBLE.

22 (4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2035.

23 **SECTION 3.** In Colorado Revised Statutes, 39-22-531, **amend**
24 (6) and (13) as follows:

25 **39-22-531. Colorado job growth incentive tax credit - rules -**
26 **definitions - repeal.** (6) Except as provided in ~~section 24-46-104.3~~
27 SECTIONS 24-46-104.3 AND 24-46-107, if the amount of the credit allowed

1 in this section exceeds the amount of income taxes otherwise due on the
2 taxpayer's income in the income tax year for which the credit is being
3 claimed, the amount of the credit not used as an offset against income
4 taxes in the current income tax year may be carried forward and used as
5 a credit against subsequent years' income tax liability for a period not to
6 exceed ten years and shall be applied first to the earliest income tax years
7 possible. Any credit remaining after said period shall not be refunded or
8 credited to the taxpayer.

9 (13) This section is repealed, effective ~~January 1, 2031~~ JULY 1,
10 2042.

11 **SECTION 4.** In Colorado Revised Statutes, 39-30-104, **amend**
12 (2)(c)(III) and (2.5) as follows:

13 **39-30-104. Credit against tax - investment in certain property**
14 **- definitions.** (2) (c) (III) (A) Except as otherwise provided in ~~section~~
15 ~~24-46-104.3~~ SECTIONS 24-46-104.3 AND 24-46-107 and subsection
16 (2)(c)(III)(B) of this section, any excess credit allowed pursuant to this
17 subsection (2)(c) shall be an investment tax credit carryover to each of the
18 fourteen income tax years following the unused credit year.

19 (B) Except as otherwise provided in ~~section 24-46-104.3~~
20 SECTIONS 24-46-104.3 AND 24-46-107, any excess credit allowed pursuant
21 to this subsection (2)(c) for a renewable energy investment made in an
22 income tax year commencing before January 1, 2018, shall be an
23 investment tax credit carryover for twenty-two income tax years
24 following the year the credit was originally allowed.

25 (2.5) (a) (I) Notwithstanding section 39-22-507.5 (7)(b), EXCEPT
26 AS PROVIDED IN SECTION 24-46-107, and except as otherwise provided in
27 subsections (2.5)(a)(II) and (2.5)(b) of this section, any excess credit

1 allowed pursuant to this section shall be an investment tax credit
2 carryover to each of the twelve income tax years following the unused
3 credit year.

4 (II) EXCEPT AS PROVIDED IN SECTION 24-46-107, any excess credit
5 claimed pursuant to this section for a renewable energy investment made
6 in an income tax year commencing before January 1, 2018, shall be an
7 investment tax credit carryover for twenty income tax years following the
8 year the credit was originally allowed.

9 (b) (I) Except as provided in ~~subparagraph (II) of this paragraph~~
10 ~~(b) SECTION 24-46-107 AND SUBSECTION (2.5)(b)(II) OF THIS SECTION,~~ a
11 taxpayer that deferred claiming any credit in excess of five hundred
12 thousand dollars during an income tax year commencing on or after
13 January 1, 2011, but prior to January 1, 2014, pursuant to ~~paragraph (b)~~
14 ~~of subsection (2)~~ SUBSECTION (2)(b) of this section shall be allowed to
15 claim the deferred credit as an investment tax credit carryover for twelve
16 income tax years following the year the credit was originally allowed plus
17 one additional income tax year for each income tax year that the credit
18 was deferred pursuant to ~~paragraph (b) of subsection (2)~~ SUBSECTION
19 (2)(b) of this section.

20 (II) EXCEPT AS PROVIDED IN SECTION 24-46-107, a taxpayer is
21 allowed to claim the deferred credit described in ~~subparagraph (I) of this~~
22 ~~paragraph (b)~~ SUBSECTION (2.5)(b)(I) OF THIS SECTION for a renewable
23 energy investment made in an income tax year commencing before
24 January 1, 2018, as an investment tax credit carryover for twenty income
25 tax years following the year the credit was originally allowed plus one
26 additional income tax year for each income tax year that the credit was
27 deferred pursuant to ~~paragraph (b) of subsection (2)~~ SUBSECTION (2)(b)

1 of this section.

2 **SECTION 5.** In Colorado Revised Statutes, 39-30-105.1, **amend**
3 (4)(a) as follows:

4 **39-30-105.1. Credit for new enterprise zone business**
5 **employees - definitions.** (4) (a) (I) Except as provided in ~~section~~
6 ~~24-46-104.3~~ SECTIONS 24-46-104.3 AND 24-46-107, for any income tax
7 year commencing on or after January 1, 2014, if the total amount of the
8 credits claimed by a taxpayer pursuant to subsections (1)(a)(I), (1)(b), and
9 (3)(a) of this section exceeds the amount of income taxes due on the
10 income of the taxpayer in the income tax year for which the credits are
11 being claimed, the amount of the credits not used as an offset against
12 income taxes in said income tax year is not allowed as a refund but may
13 be carried forward as a credit against subsequent years' tax liability for a
14 period not exceeding five years and is applied first to the earliest income
15 tax years possible. Any amount of the credit that is not used during said
16 period is not refundable to the taxpayer.

17 (II) Except as provided in ~~section 24-46-104.3~~ SECTIONS
18 24-46-104.3 AND 24-46-107, for any income tax year commencing on or
19 after January 1, 2014, if the total amount of credits claimed by a taxpayer
20 pursuant to subsections (1)(a)(II) and (3)(b) of this section exceeds the
21 amount of income taxes due on the income of the taxpayer in the income
22 tax year for which the credits are being claimed, the amount of credits not
23 used as an offset against income taxes in said income tax year is not
24 allowed as a refund but may be carried forward as a credit against
25 subsequent years' tax liability for a period not exceeding seven years and
26 is applied first to the earliest income tax years possible. Any amount of
27 the credit that is not used during said period is not refundable to the

1 taxpayer.

2 **SECTION 6.** In Colorado Revised Statutes, 39-30-105.6, **amend**
3 (3) as follows:

4 **39-30-105.6. Credit against tax - rehabilitation of vacant**
5 **buildings.** (3) EXCEPT AS PROVIDED IN SECTION 24-46-107, if the amount
6 of the credit allowed pursuant to the provisions of this section exceeds the
7 amount of income taxes otherwise due on the income of the taxpayer in
8 the income tax year for which the credit is being claimed, the amount of
9 the credit not used as an offset against income taxes in said income tax
10 year may be carried forward as a credit against subsequent years' income
11 tax liability for a period not exceeding five years and shall be applied first
12 to the earliest income tax years possible. Any credit remaining after said
13 period shall not be refunded or credited to the taxpayer.

14 **SECTION 7. Act subject to petition - effective date.** This act
15 takes effect at 12:01 a.m. on the day following the expiration of the
16 ninety-day period after final adjournment of the general assembly; except
17 that, if a referendum petition is filed pursuant to section 1 (3) of article V
18 of the state constitution against this act or an item, section, or part of this
19 act within such period, then the act, item, section, or part will not take
20 effect unless approved by the people at the general election to be held in
21 November 2022 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.