

**First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 25-0507.01 Jed Franklin x5484

HOUSE BILL 25-1157

HOUSE SPONSORSHIP

Titone and Lindstedt,

SENATE SPONSORSHIP

Snyder and Baisley,

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE EXTENSION OF THE ADVANCED INDUSTRY**
102 **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>.)

Currently, the advanced industry investment tax credit (credit) expires on December 31, 2026. The bill extends the credit until December 31, 2031. The credit is currently available to a qualified investor that makes a qualified investment in a qualified small business that is in an advanced industry. On and after January 1, 2028, the credit is also available to a qualified investor that makes a qualified investment in a

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.*

qualified small business that is not an advanced industry business, operates in the manufacturing sector, generates revenue from operations, is a primary employer, is producing a product that is distributed outside of Colorado, and, in the judgment of the Colorado office of economic development (office), is a commercially scalable and capital-intensive business that will bring incremental income to the local economy.

The bill changes the definition of "qualified investment" by eliminating the current prohibition against a qualified investor having more than 30% of the voting power in the qualified small business before the investor makes a qualified investment and more than 49% of the voting power in the qualified small business after making a qualified investment.

The bill changes the definition of "qualified investor" by clarifying that an entity subject to income tax may qualify as an investor, except that a C corporation, including any limited liability or other legal entity treated as a C corporation for federal and state income tax purposes, is not a qualified investor. A qualified investor may include a partner, shareholder, or beneficiary that is allocated a credit. A qualified investor does not include a person that had control of a qualified small business for 6 months preceding or following the date of the investment in the qualified small business. A founder, employee, or contractor or a spouse of a founder, employee, or contractor of a qualified small business is not a qualified investor. A person that has invested more than \$50,000 in the qualified small business or owns more than 10% of the qualified small business on a fully diluted basis is not a qualified investor.

The office administers the credit. The office may certify a small business as a qualified small business until October 1, 2031. A small business certified as a qualified small business must report to the office as requested to confirm the certified small business's status as a qualified small business. The office may require a qualified small business to provide information to confirm that a qualified investment has been made in the qualified small business, the intended use of the qualified investment, and the expected number of new employees that will be hired by the qualified small business as a result of the qualified investment. A qualified small business that receives a qualified investment is required to report data relevant to the impact of the credit and development of the qualified small business annually to the office for 5 years following a qualified investment. The office may assess a penalty against a qualified small business that does not meet this reporting requirement.

The office may issue \$4 million in credits per calendar year for the years through the 2026 calendar year for which the credit is currently available. The bill decreases the cap to \$2.5 million per calendar year beginning with the 2027 calendar year through the 2031 calendar year.

If the qualified investor receiving a credit is a trust, the qualified investor may allocate the credit between the trust and its beneficiaries in

any manner determined by the trust. The office shall issue a credit certificate to a trust beneficiary and a trust beneficiary may claim the amount indicated on the credit certificate.

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

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

4 (a) Currently, the advanced industries tax credit is available to
5 qualified small businesses in advanced industries but not in scalable
6 manufacturing; and

7 (b) Providing incentives for qualified angel investors to invest in
8 qualified small businesses in scalable manufacturing will:

9 (I) Create new jobs in Colorado;

10 (II) Increase exports and competitiveness in national and global
11 markets;

12 (III) Attract investment in Colorado companies; and

13 (IV) Expand access to capital for innovative and scalable
14 Colorado startups.

15 (2) Therefore, the general assembly further finds and declares that
16 the advanced industries investment tax credit should be expanded to
17 qualified small businesses in scalable manufacturing to encourage
18 investment in scalable manufacturing.

19 **SECTION 2.** In Colorado Revised Statutes, 24-48.5-112, **amend**
20 (1)(e) introductory portion, (1)(e)(I), (1)(f), (1)(g)(I), (1.5)(b), (2)(a),
21 (2)(b), (2)(c), (2)(d), and (3)(b); **repeal** (1)(c), (1)(e)(III), and (1)(e)(IV);
22 and **add** (1)(h) as follows:

23 **24-48.5-112. Advanced industry investment tax credit -**
24 **administration - legislative declaration - definitions - repeal.** (1) As

1 used in this section, unless the context otherwise requires:

2 (c) ~~"Affiliate" means any person or entity that controls, is~~
3 ~~controlled by, or is under common control with another person or entity.~~
4 ~~For purposes of this paragraph (c), "control" means the power to~~
5 ~~determine the policies of an entity whether through ownership of voting~~
6 ~~securities, by contract, or otherwise.~~

7 (e) "Qualified investment" means ~~an~~ A MONETARY investment
8 made at any time on or after July 1, 2014, but before ~~January 1, 2027~~
9 JANUARY 1, 2032, in an equity security that meets all of the following
10 requirements:

11 (I) The equity security is common stock, preferred stock, an
12 interest in a partnership or limited liability company, a security that is
13 convertible into an equity security, a convertible debt investment, or other
14 equity security as determined by the office; AND

15 (III) ~~The qualified investor and its affiliates do not hold, of record~~
16 ~~or beneficially, immediately before making an investment, equity~~
17 ~~securities possessing more than thirty percent of the total voting power of~~
18 ~~all equity securities of the qualified small business; and~~

19 (IV) ~~The qualified investor and its affiliates hold, of record or~~
20 ~~beneficially, immediately after making the investment, equity securities~~
21 ~~possessing less than fifty percent of the total voting power of all equity~~
22 ~~securities of the qualified small business.~~

23 (f) "Qualified investor" means ~~an individual, limited liability~~
24 ~~company, partnership, S corporation, as defined in section 39-22-103~~
25 ~~(10.5), C.R.S., or other business entity that makes a qualified investment~~
26 ~~in a qualified small business. "Qualified investor" does not include a C~~
27 ~~corporation, as defined in section 39-22-103 (2.5), C.R.S. A PERSON~~

1 SUBJECT TO TAX UNDER ARTICLE 22 OF TITLE 39 THAT MAKES A QUALIFIED
2 INVESTMENT IN A QUALIFIED SMALL BUSINESS, EXCEPT THAT A C
3 CORPORATION, AS DEFINED IN SECTION 39-22-103 (2.5), INCLUDING ANY
4 LIMITED LIABILITY COMPANY OR OTHER LEGAL ENTITY TREATED AS A C
5 CORPORATION FOR STATE AND FEDERAL INCOME TAX PURPOSES, IS NOT A
6 QUALIFIED INVESTOR. A QUALIFIED INVESTOR MAY INCLUDE A PARTNER,
7 SHAREHOLDER, OR BENEFICIARY THAT IS ALLOCATED A CREDIT PURSUANT
8 TO SECTION 39-22-532 (7). A QUALIFIED INVESTOR MAY BE A
9 PARTNERSHIP, WHICH INCLUDES ANY LIMITED LIABILITY COMPANY OR
10 OTHER LEGAL ENTITY TREATED AS A PARTNERSHIP FOR STATE AND
11 FEDERAL INCOME TAX PURPOSES, OR AN S CORPORATION, WHICH INCLUDES
12 ANY LIMITED LIABILITY COMPANY OR OTHER LEGAL ENTITY TREATED AS
13 AN S CORPORATION FOR STATE AND FEDERAL INCOME TAX PURPOSES. A
14 QUALIFIED INVESTOR DOES NOT INCLUDE A PERSON THAT HAS CONTROL OF
15 A QUALIFIED SMALL BUSINESS FOR SIX MONTHS PRECEDING OR FOLLOWING
16 THE DATE OF THE INVESTMENT IN THE QUALIFIED SMALL BUSINESS. FOR
17 PURPOSES OF THIS SUBSECTION (1)(f), "CONTROL" MEANS THE POWER TO
18 DETERMINE THE POLICIES OF THE QUALIFIED SMALL BUSINESS, WHETHER
19 THROUGH OWNERSHIP OF VOTING SECURITIES, BY CONTRACT, OR
20 OTHERWISE, INCLUDING INVOLVEMENT IN THE QUALIFIED SMALL
21 BUSINESS'S OPERATIONS. A FOUNDER, EMPLOYEE, OR CONTRACTOR OR THE
22 SPOUSE OF A FOUNDER, EMPLOYEE, OR CONTRACTOR OF A QUALIFIED
23 SMALL BUSINESS IS NOT A QUALIFIED INVESTOR. A PERSON THAT HAS
24 INVESTED MORE THAN FIFTY THOUSAND DOLLARS IN THE QUALIFIED SMALL
25 BUSINESS OR OWNS MORE THAN TEN PERCENT OF THE QUALIFIED SMALL
26 BUSINESS ON A FULLY DILUTED BASIS IS NOT A QUALIFIED INVESTOR.

27 (g) "Qualified small business" means a corporation, limited

1 liability company, partnership, or other business entity that:

2 (I) Is in an advanced industry, AS DEFINED IN SECTION 24-48.5-117
3 (2)(a), OR, ON OR AFTER JANUARY 1, 2028, IS IN SCALABLE
4 MANUFACTURING, AS DEFINED IN SUBSECTION (1)(h) OF THIS SECTION;

5 (h) "SCALABLE MANUFACTURING" MEANS A BUSINESS THAT:

6 (I) IS NOT AN ADVANCED INDUSTRY BUSINESS;

7 (II) OPERATES IN THE MANUFACTURING SECTOR;

8 (III) IS GENERATING REVENUE FROM OPERATIONS;

9 (IV) IS A PRIMARY EMPLOYER PRODUCING A PRODUCT THAT IS
10 CURRENTLY SOLD OUTSIDE OF COLORADO; AND

11 (V) IS, IN THE JUDGMENT OF THE OFFICE, A COMMERCIALY
12 SCALABLE AND CAPITAL-INTENSIVE BUSINESS THAT WILL BRING
13 INCREMENTAL INCOME TO THE LOCAL ECONOMY.

14 (1.5) In accordance with section 39-21-304 (1), which requires
15 each bill that extends an expiring tax expenditure to include a tax
16 preference performance statement as part of a statutory legislative
17 declaration, the general assembly hereby finds and declares that:

18 (b) The specific legislative purpose of the tax credit allowed by
19 this section is to encourage investment in small businesses located in
20 Colorado in advanced OR SCALABLE MANUFACTURING industries,
21 including in quantum fields, and in particular in small businesses in
22 advanced OR SCALABLE MANUFACTURING industries, including in
23 quantum fields, located in a rural area or economically distressed area of
24 the state; and

25 (2) (a) The office shall receive and evaluate applications that are
26 submitted by qualified investors to receive an advanced industry
27 investment tax credit for qualified investments made in a qualified small

1 business THAT HAS BEEN EVALUATED AND CERTIFIED AS ELIGIBLE TO
2 RECEIVE QUALIFIED INVESTMENTS FOR THE PURPOSES OF THIS SECTION.

3 (b) To be eligible for an advanced industry investment tax credit,
4 a qualified investor must file a completed application with the office
5 within ninety days after making a qualified investment IN A CERTIFIED
6 AND QUALIFIED SMALL BUSINESS. The office shall prescribe the manner
7 and form of the application. The office shall note the time and date of
8 each application received. In addition to any other requirements
9 established by the office, the application must include the name, address,
10 and federal income tax identification number of the applicant, ~~the number~~
11 ~~of new employees hired by the qualified small business as a result of the~~
12 ~~qualified investment~~, and any additional information that the office
13 requires. THE OFFICE MAY REQUIRE THE QUALIFIED INVESTOR TO PROVIDE
14 INFORMATION TO CONFIRM THAT A QUALIFIED INVESTMENT HAS BEEN
15 MADE IN A QUALIFIED SMALL BUSINESS, THE INTENDED USE OF THE
16 QUALIFIED INVESTMENT, AND THE EXPECTED NUMBER OF NEW EMPLOYEES
17 THAT WILL BE HIRED BY THE QUALIFIED SMALL BUSINESS AS A RESULT OF
18 THE QUALIFIED INVESTMENT.

19 (c) A business ~~may request~~ SHALL SUBMIT AN APPLICATION TO the
20 office to determine whether it is a qualified small business. Upon
21 ~~receiving the request or upon~~ receipt of an application for an advanced
22 industry investment tax credit from a qualified investor, the office shall
23 determine whether the business that is named in the application ~~or written~~
24 ~~request~~ is a qualified small business. After determining the qualifications,
25 the office shall certify the qualified small business as being eligible to
26 receive qualified investments for purposes of this section. A CERTIFIED
27 SMALL BUSINESS MUST REPORT TO THE OFFICE AS REQUESTED BY THE

1 OFFICE TO CONFIRM THE CERTIFIED SMALL BUSINESS'S STATUS AS A
2 QUALIFIED SMALL BUSINESS. THE OFFICE MAY CERTIFY A SMALL BUSINESS
3 THROUGH OCTOBER 1, 2031. The certification for a qualified small
4 business ~~that is certified after July 1, 2014, is valid until January 1, 2027;~~
5 ~~except that the certification~~ is revoked if the business no longer meets the
6 qualifications. A business shall notify the office within thirty business
7 days from the date that it no longer meets the qualifications. A QUALIFIED
8 SMALL BUSINESS THAT RECEIVES A QUALIFIED INVESTMENT SHALL REPORT
9 DATA RELEVANT TO THE IMPACT OF THE TAX CREDIT AND DEVELOPMENT
10 OF THE QUALIFIED SMALL BUSINESS ANNUALLY TO THE OFFICE FOR A
11 FIVE-YEAR PERIOD FOLLOWING AN INITIAL QUALIFIED INVESTMENT. If the
12 certification is revoked OR A BUSINESS FAILS TO MEET ITS REPORTING
13 REQUIREMENTS, the office may assess a penalty against the business that
14 is equal to the amount of the advanced industry investment tax credits
15 authorized after the date that the business no longer meets the
16 qualifications. The state treasurer shall deposit the penalty into the state
17 general fund. If the certification is revoked, subsequent investments in the
18 business do not qualify for a tax credit. All tax credits issued before the
19 revocation of the certification remain valid. The office shall not deny any
20 application for a tax credit on the basis of the revocation of the
21 certification if the investment was made before the date of the revocation.

22 (d) As part of the application for an advanced industry investment
23 tax credit, the applicant and the qualified small business that receives the
24 investment must each provide written authorization to permit the
25 department of revenue to provide tax information to the office for the
26 purpose of determining if there are any misrepresentations on the
27 application. The authorization is limited to disclosure of income tax

1 information for the latest two years for which returns were filed with the
2 department of revenue preceding the date the application is filed and for
3 all tax years through the year in which the investment was made for
4 which a return was not filed as of the date of the application. The
5 applicant must also provide in the written authorization income tax
6 information for all tax years in which the applicant actually claims a tax
7 credit or carries forward a tax credit on a return filed with the department
8 of revenue. An applicant that is a partnership, ~~limited liability company,~~
9 S corporation, ~~or similar pass-through entity and~~ OR TRUST that may
10 allocate the credit among ~~the~~ ITS partners, shareholders, ~~members,~~ or
11 ~~other constituent qualified investors~~ BENEFICIARIES pursuant to section
12 39-22-532 (7) must provide a written authorization with content similar
13 to the authorization, and in the same manner, as any other applicant is
14 required to provide. If an applicant or qualified small business fails to
15 comply with this subsection (2)(d), an applicant is ineligible for a tax
16 credit.

17 (3) (b) (I) The total amount of the advanced industry investment
18 tax credits shall not exceed three hundred seventy-five thousand dollars
19 for the 2014 calendar year; seven hundred fifty thousand dollars for each
20 calendar year from 2015 through 2022; ~~and~~ four million dollars for each
21 calendar year from 2023 through 2026; AND TWO MILLION FIVE HUNDRED
22 THOUSAND DOLLARS FOR EACH CALENDAR YEAR FROM 2027 THROUGH
23 2031; except that, if the total amount of the credits for 2018 or a later
24 calendar year through 2022 is less than the maximum amount, then the
25 maximum amount for the next year is increased by an amount equal to the
26 remaining, unused tax credits from the prior year. The office shall
27 authorize the tax credits in the order that COMPLETE applications are

1 received by the office and shall deny any application received after the
2 limit has been met. The office may partially authorize the last tax credit
3 that is awarded up to the limit.

4 (II) The total amount of the tax credit for each qualified
5 investment IN A QUALIFIED SMALL BUSINESS shall not exceed one hundred
6 thousand dollars. THE AGGREGATE AMOUNT OF THE CREDIT ALLOWED TO
7 THE PARTNERS OR SHAREHOLDERS OF A PARTNERSHIP OR S CORPORATION
8 THAT MAKES A QUALIFIED INVESTMENT MUST NOT EXCEED ONE HUNDRED
9 THOUSAND DOLLARS. A qualified investor may not claim more than one
10 tax credit per qualified small business, ~~but~~ REGARDLESS OF WHETHER THE
11 QUALIFIED INVESTMENT IS MADE DIRECTLY BY THE QUALIFIED INVESTOR
12 OR INDIRECTLY THROUGH ANOTHER ENTITY. A QUALIFIED INVESTOR may
13 be eligible for a tax credit for qualified investments in different qualified
14 small businesses in the same or a different year.

15 **SECTION 3.** In Colorado Revised Statutes, 39-22-532, **amend**
16 (7) as follows:

17 **39-22-532. Advanced industry investment tax credit -**
18 **definitions.** (7) If a qualified investor receiving a credit allowed in this
19 section is a partnership ~~limited liability company~~, OR S corporation, ~~or~~
20 ~~similar pass-through entity~~, the qualified investor may allocate the credit
21 among its partners OR shareholders ~~members, or other constituent~~
22 ~~qualified investors~~ in any manner agreed to by such partners OR
23 shareholders. ~~members, or other constituent qualified investors.~~ IF THE
24 QUALIFIED INVESTOR RECEIVING THE CREDIT ALLOWED BY THIS SECTION
25 IS A TRUST, THE QUALIFIED INVESTOR MAY ALLOCATE THE CREDIT
26 BETWEEN THE TRUST AND ITS BENEFICIARIES IN ANY MANNER DETERMINED
27 BY THE TRUST. The qualified investor shall certify to the Colorado office

1 of economic development the amount of the credit allocated to each
2 partner, shareholder, ~~member, or other constituent qualified investor~~, OR
3 BENEFICIARY and the office shall issue credit certificates in the
4 appropriate amounts to each partner, shareholder, ~~member, or other~~
5 ~~constituent qualified investor~~, OR BENEFICIARY. Each partner, shareholder,
6 ~~member, or other constituent qualified investor~~ OR BENEFICIARY shall be
7 allowed to claim such amount subject to any restrictions set forth in this
8 section and section 24-48.5-112.

9 **SECTION 4. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly; except
12 that, if a referendum petition is filed pursuant to section 1 (3) of article V
13 of the state constitution against this act or an item, section, or part of this
14 act within such period, then the act, item, section, or part will not take
15 effect unless approved by the people at the general election to be held in
16 November 2026 and, in such case, will take effect on the date of the
17 official declaration of the vote thereon by the governor.