

CHAPTER 302

TAXATION

SENATE BILL 13-286

BY SENATOR(S) Hodge and Brophy, Guzman, Kefalas, Newell;
also REPRESENTATIVE(S) Levy and Sonnenberg, Buckner, Conti, Coram, Court, Duran, Exum, Fields, Gerou, Ginal,
Hullingerhorst, Kagan, Labuda, Lebsock, Lee, Melton, Mitsch Bush, Moreno, Pabon, Priola, Rosenthal, Salazar, Scott, Singer, Tyler,
Williams, Young.

AN ACT

CONCERNING AN EXTENSION OF THE NUMBER OF YEARS THAT A TAXPAYER MAY CLAIM EXCESS ENTERPRISE ZONE INVESTMENT INCOME TAX CREDITS AS CREDIT CARRYOVERS FOR RENEWABLE ENERGY INVESTMENTS.

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

SECTION 1. In Colorado Revised Statutes, 39-30-104, **amend** (2.5); and **add** (2.8) as follows:

39-30-104. Credit against tax - investment in certain property - repeal.
(2.5) (a) (I) Notwithstanding the provisions of section 39-22-507.5 (7) (b), and except as otherwise provided in SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) AND paragraph (b) of this subsection (2.5), any excess credit claimed pursuant to this section shall be an investment tax credit carryover to each of the twelve income tax years following the unused credit year.

(II) ANY EXCESS CREDIT CLAIMED PURSUANT TO THIS SECTION FOR A RENEWABLE ENERGY INVESTMENT MADE IN AN INCOME TAX YEAR COMMENCING BEFORE JANUARY 1, 2018, SHALL BE AN INVESTMENT TAX CREDIT CARRYOVER FOR TWENTY INCOME TAX YEARS FOLLOWING THE YEAR THE CREDIT WAS ORIGINALLY ALLOWED.

(b) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b), a taxpayer that deferred claiming any credit in excess of five hundred thousand dollars during an income tax year commencing on or after January 1, 2011, but prior to January 1, 2014, pursuant to paragraph (b) of subsection (2) of this section shall be allowed to claim the deferred credit as an investment tax credit carryover for twelve income tax years following the year the credit was originally allowed plus one

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

additional income tax year for each income tax year that the credit was deferred pursuant to paragraph (b) of subsection (2) of this section.

(II) A TAXPAYER IS ALLOWED TO CLAIM THE DEFERRED CREDIT DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) FOR A RENEWABLE ENERGY INVESTMENT MADE IN AN INCOME TAX YEAR COMMENCING BEFORE JANUARY 1, 2018, AS AN INVESTMENT TAX CREDIT CARRYOVER FOR TWENTY INCOME TAX YEARS FOLLOWING THE YEAR THE CREDIT WAS ORIGINALLY ALLOWED PLUS ONE ADDITIONAL INCOME TAX YEAR FOR EACH INCOME TAX YEAR THAT THE CREDIT WAS DEFERRED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION.

(2.8) FOR PURPOSES OF THIS SECTION, "RENEWABLE ENERGY INVESTMENT" MEANS AN INVESTMENT THAT QUALIFIES FOR THE CREDIT SPECIFIED IN PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION FOR SOLAR THERMAL ELECTRIC, PHOTOVOLTAIC, LANDFILL GAS, WIND, BIOMASS, HYDROELECTRIC, GEOTHERMAL ELECTRIC, RECYCLED ENERGY, ANAEROBIC DIGESTION, OR RENEWABLE FUEL CELL PROJECTS.

SECTION 2. In Colorado Revised Statutes, 39-30-104, amend as added by House Bill 13-1142 (2) (c) (III) and (2.7) as follows:

39-30-104. Credit against tax - investment in certain property - repeal.

(2) (c) (III) (A) EXCEPT AS PROVIDED IN SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (III), any excess credit allowed pursuant to this paragraph (c) shall be an investment tax credit carryover to each of the fourteen income tax years following the unused credit year.

(B) ANY EXCESS CREDIT ALLOWED PURSUANT TO THIS PARAGRAPH (c) FOR A RENEWABLE ENERGY INVESTMENT MADE IN AN INCOME TAX YEAR COMMENCING BEFORE JANUARY 1, 2018, SHALL BE AN INVESTMENT TAX CREDIT CARRYOVER FOR TWENTY-TWO INCOME TAX YEARS FOLLOWING THE YEAR THE CREDIT WAS ORIGINALLY ALLOWED.

(2.7) The Colorado economic development commission shall annually post on its web site or on the Colorado office of economic development's web site the following information regarding any enterprise zone investment tax credit certified under this section:

- (a) The enterprise zone for the certified credit;
- (b) The name of the taxpayer or business;
- (c) The type of business;
- (d) The tax year for which the credit is certified;
- (e) The total qualified investment reported;

(f) WHETHER THE CREDIT IS FOR A RENEWABLE ENERGY INVESTMENT AS DEFINED IN SUBSECTION (2.8) OF THIS SECTION;

- (f)(g) The amount of the qualified investment that qualifies for the credit;

~~(g)~~ (h) The calculated credit; and

~~(h)~~ (i) The county where the qualified investment is made.

SECTION 3. Effective date. This act takes effect upon passage; except that section 2 of this act takes effect only if House Bill 13-1142 becomes law and takes effect either upon the effective date of this act or House Bill 13-1142, whichever is later.

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

Approved: May 28, 2013