

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 09-0578.01 Ed DeCecco

HOUSE BILL 09-1105

HOUSE SPONSORSHIP

Kefalas,

SENATE SPONSORSHIP

(None),

House Committees

Business Affairs and Labor
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE COLORADO INNOVATION**
102 **INVESTMENT TAX CREDIT TO BE APPLIED AGAINST STATE**
103 **INCOME TAXES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Creates the Colorado innovation investment tax credit (tax credit) to be applied against state income tax liability. Permits the tax credit for an equity investment in a qualified small business that is in the aerospace, bioscience, clean energy, or information technology industry. Establishes that the tax credit is equal to a specified percentage of the total investment

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.*

evenly spread over the 2 tax years after the investment. Limits the tax credit to a maximum amount. Prohibits a tax credit from being refunded, but permits the tax credit to be carried forward a specified number of years.

Requires the Colorado office of economic development (office) to determine the eligibility for the tax credit and to issue nontransferable tax credit certificates as evidence of eligibility and the amount of the tax credit. Requires a taxpayer to submit a copy of the tax credit certificate in order to claim the tax credit.

Requires the office and the department of revenue to share information related to the 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 strategic
5 technology industries is one of the most promising tools for helping
6 facilitate the creation of high-paying jobs;

7 (b) Access to seed capital is one of the key challenges facing early
8 stage technology companies, and many good business proposals go
9 unfunded each year;

10 (c) Reducing risk to investors through a tax credit based on an
11 investment in startup businesses in strategic industries will reduce some
12 of the risk to investors and thereby draw additional investment dollars for
13 such business;

14 (d) These successfully funded startup businesses will go on to
15 raise additional capital, create jobs that pay high wages, and ultimately
16 produce revenue and additional economic growth in the state; and

17 (e) Eighteen states currently offer some form of tax credits for
18 investors, and Colorado needs to establish a similar investment credit in
19 order to encourage startups to begin and stay in the state.

1 (2) Now, therefore, it is the intent of the general assembly to
2 create an income tax credit for investment in certain qualified businesses
3 in the clean energy, bioscience, information technology, and aerospace
4 industries to be known as the Colorado innovation investment tax credit.

5 **SECTION 2.** Article 48.5 of title 24, Colorado Revised Statutes,
6 is amended BY THE ADDITION OF A NEW SECTION to read:

7 **24-48.5-111. Administration of Colorado innovation**
8 **investment tax credit - definitions.** (1) AS USED IN THIS SECTION,
9 UNLESS THE CONTEXT OTHERWISE REQUIRES:

10 (a) "AFFILIATE" MEANS ANY PERSON OR ENTITY THAT CONTROLS,
11 IS CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH ANOTHER
12 PERSON OR ENTITY. FOR PURPOSES OF THIS PARAGRAPH (a), "CONTROL"
13 MEANS THE POWER TO DETERMINE THE POLICIES OF AN ENTITY WHETHER
14 THROUGH OWNERSHIP OF VOTING SECURITIES, BY CONTRACT, OR
15 OTHERWISE.

16 (b) "ASSET" MEANS ANY OWNED PROPERTY THAT HAS VALUE,
17 INCLUDING FINANCIAL ASSETS AND PHYSICAL ASSETS. INTELLECTUAL
18 PROPERTY SHALL NOT BE INCLUDED WHEN DETERMINING TOTAL ASSETS.

19 (c) "CLEANENERGY TECHNOLOGY" MEANS AN INDUSTRY RELATED
20 TO:

21 (I) FUELS OR ENERGY DERIVED FROM WIND, SOLAR, WATER,
22 BIOFUELS, GEOTHERMAL, OR OTHER RENEWABLE RESOURCES;

23 (II) ENERGY STORAGE METHODS, INCLUDING FUEL CELLS,
24 ADVANCED BATTERIES, AND HYBRID SYSTEMS;

25 (III) ENERGY TRANSMISSION INFRASTRUCTURE AND MANAGEMENT,
26 INCLUDING SMART GRID TECHNOLOGIES; AND

1 (IV) INCREASED ENERGY EFFICIENCY RELATING TO LIGHTING,
2 BUILDINGS, VEHICLES, INDUSTRIAL APPLICATIONS, AND CONSUMER GOODS.

3 (d) "COLORADO INNOVATION INVESTMENT TAX CREDIT" OR "TAX
4 CREDIT" MEANS THE CREDIT AGAINST INCOME TAX CREATED IN SECTION
5 39-22-531, C.R.S.

6 (e) "INFORMATION TECHNOLOGY" MEANS THE BRANCH OF
7 TECHNOLOGY DEVOTED TO THE STUDY AND APPLICATION OF DATA AND
8 THE PROCESSING THEREOF, THE AUTOMATIC ACQUISITION, STORAGE,
9 MANIPULATION OR TRANSFORMATION, MANAGEMENT, MOVEMENT,
10 CONTROL, DISPLAY, SWITCHING, INTERCHANGE, TRANSMISSION OR
11 RECEPTION OF DATA, AND THE DEVELOPMENT OR USE OF HARDWARE,
12 SOFTWARE, FIRMWARE, AND PROCEDURES ASSOCIATED WITH THIS
13 PROCESSING. "INFORMATION TECHNOLOGY" INCLUDES MATTERS
14 CONCERNED WITH THE FURTHERANCE OF COMPUTER SCIENCE AND
15 TECHNOLOGY AND THE DESIGN, DEVELOPMENT, INSTALLATION, AND
16 IMPLEMENTATION OF INFORMATION SYSTEMS AND APPLICATIONS THAT IN
17 TURN WILL BE LICENSED OR SOLD TO A SPECIFIC TARGET MARKET, BUT
18 DOES NOT INCLUDE THE CREATION OF A DISTRIBUTION METHOD FOR
19 EXISTING PRODUCTS AND SERVICES.

20 (f) "OFFICE" MEANS THE COLORADO OFFICE OF ECONOMIC
21 DEVELOPMENT CREATED IN SECTION 24-48.5-101.

22 (g) "QUALIFIED INVESTMENT" MEANS AN INVESTMENT MADE ON
23 OR AFTER JANUARY 1, 2010, IN AN EQUITY SECURITY THAT MEETS ALL OF
24 THE FOLLOWING REQUIREMENTS:

25 (I) THE EQUITY SECURITY IS COMMON STOCK, PREFERRED STOCK,
26 AN INTEREST IN A PARTNERSHIP OR LIMITED LIABILITY COMPANY, A
27 SECURITY THAT IS CONVERTIBLE INTO AN EQUITY SECURITY, A

1 CONVERTIBLE DEBT INVESTMENT, OR OTHER EQUITY SECURITY AS
2 DETERMINED BY THE OFFICE;

3 (II) THE INVESTMENT IS AT LEAST TWENTY-FIVE THOUSAND
4 DOLLARS; AND

5 (III) THE QUALIFIED INVESTOR AND ITS AFFILIATES DO NOT HOLD,
6 OF RECORD OR BENEFICIALLY, IMMEDIATELY BEFORE MAKING AN
7 INVESTMENT, EQUITY SECURITIES POSSESSING MORE THAN THIRTY
8 PERCENT OF THE TOTAL VOTING POWER OF ALL EQUITY SECURITIES OF THE
9 QUALIFIED SMALL BUSINESS.

10 (h) "QUALIFIED INVESTOR" MEANS AN INDIVIDUAL, LIMITED
11 LIABILITY COMPANY, PARTNERSHIP, S CORPORATION, AS DEFINED IN
12 SECTION 39-22-103 (10.5), C.R.S., OR OTHER BUSINESS ENTITY THAT
13 MAKES A QUALIFIED INVESTMENT IN A QUALIFIED SMALL BUSINESS.
14 "QUALIFIED INVESTOR" DOES NOT INCLUDE A C CORPORATION, AS DEFINED
15 IN SECTION 39-22-103 (2.5), C.R.S.

16 (i) "QUALIFIED SMALL BUSINESS" MEANS A CORPORATION, LIMITED
17 LIABILITY COMPANY, PARTNERSHIP, OR OTHER BUSINESS ENTITY THAT:

18 (I) MAINTAINS ITS PRINCIPLE PLACE OF BUSINESS IN THE STATE;

19 (II) HAS AT LEAST FIFTY PERCENT OF ITS GROSS ASSETS AND FIFTY
20 PERCENT OF ITS EMPLOYEES LOCATED WITHIN THE STATE. IF THE ENTITY
21 IS A MEMBER OF AN AFFILIATE, THE GROSS ASSETS AND THE NUMBER OF
22 EMPLOYEES OF ALL MEMBERS OF THE AFFILIATE, WHEREVER THOSE ASSETS
23 AND EMPLOYEES ARE LOCATED, SHALL BE INCLUDED FOR THE PURPOSE OF
24 DETERMINING THE PERCENTAGE OF THE ENTITY'S GROSS ASSETS AND
25 EMPLOYEES THAT ARE LOCATED IN THE STATE.

26 (III) HAS AT LEAST TWO NONADMINISTRATIVE, FULL-TIME
27 EQUIVALENT EMPLOYEES WHO ARE RESIDENTS OF THE STATE;

1 (IV) HAS A PRINCIPAL BUSINESS INVOLVED PRIMARILY IN
2 RESEARCH AND DEVELOPMENT OR MANUFACTURING OF NEW
3 TECHNOLOGIES, PRODUCTS, OR PROCESSES IN ANY OF THE FOLLOWING
4 INDUSTRIES:

5 (A) AEROSPACE;

6 (B) BIOSCIENCE;

7 (C) CLEAN ENERGY TECHNOLOGY; OR

8 (D) INFORMATION TECHNOLOGY;

9 (V) HAS BEEN IN OPERATION FOR LESS THAN FIVE YEARS; AND

10 (VI) HAS TOTAL YEARLY REVENUES OF LESS THAN TWO MILLION
11 DOLLARS AND TOTAL ASSETS OF LESS THAN FIVE MILLION DOLLARS,
12 EXCLUDING ANY INVESTMENT THAT IS THE BASIS OF A COLORADO
13 INNOVATION INVESTMENT TAX CREDIT.

14 (2) (a) BEGINNING JANUARY 1, 2010, THE OFFICE SHALL RECEIVE
15 AND EVALUATE APPLICATIONS THAT ARE SUBMITTED BY QUALIFIED
16 INVESTORS TO RECEIVE A COLORADO INNOVATION INVESTMENT TAX
17 CREDIT FOR QUALIFIED INVESTMENTS MADE IN A QUALIFIED SMALL
18 BUSINESS.

19 (b) TO BE ELIGIBLE FOR A COLORADO INNOVATION INVESTMENT
20 TAX CREDIT, A QUALIFIED INVESTOR SHALL FILE AN APPLICATION WITH THE
21 OFFICE WITHIN THIRTY DAYS AFTER MAKING A QUALIFIED INVESTMENT.

22 AN APPLICATION SHALL BE MADE IN THE MANNER AND FORM
23 PRESCRIBED BY THE OFFICE. THE OFFICE SHALL NOTE THE TIME AND DATE
24 OF EACH APPLICATION RECEIVED. IN ADDITION TO ANY OTHER
25 REQUIREMENTS ESTABLISHED BY THE OFFICE, THE APPLICATION SHALL
26 INCLUDE:

27 (I) THE NAME, ADDRESS, AND FEDERAL INCOME TAX

- 1 IDENTIFICATION NUMBER OF THE APPLICANT;
- 2 (II) THE NAME AND FEDERAL EMPLOYER IDENTIFICATION NUMBER
- 3 OF THE QUALIFIED SMALL BUSINESS THAT RECEIVED A QUALIFIED
- 4 INVESTMENT MADE BY THE APPLICANT;
- 5 (III) THE DATE THE QUALIFIED INVESTMENT WAS MADE; AND
- 6 (IV) ANY ADDITIONAL INFORMATION THAT THE OFFICE REQUIRES.

7 (c) A CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP,

8 OR OTHER BUSINESS ENTITY MAY REQUEST THE OFFICE TO DETERMINE

9 WHETHER IT IS A QUALIFIED SMALL BUSINESS. UPON RECEIVING SUCH

10 REQUEST OR UPON RECEIPT OF AN APPLICATION FOR A COLORADO

11 INNOVATION INVESTMENT TAX CREDIT FROM A QUALIFIED INVESTOR, THE

12 OFFICE SHALL DETERMINE WHETHER THE CORPORATION, LIMITED

13 LIABILITY COMPANY, PARTNERSHIP, OR OTHER BUSINESS ENTITY THAT IS

14 NAMED IN THE APPLICATION OR WRITTEN REQUEST IS A QUALIFIED SMALL

15 BUSINESS. AFTER DETERMINING THE QUALIFICATIONS, THE OFFICE SHALL

16 CERTIFY THE QUALIFIED SMALL BUSINESS AS BEING ELIGIBLE TO RECEIVE

17 QUALIFIED INVESTMENTS FOR PURPOSES OF THIS SECTION. THE

18 CERTIFICATION IS VALID FOR ONE YEAR, BUT THE OFFICE MAY REVOKE THE

19 CERTIFICATION AT ANY TIME OR REFUSE TO RENEW THE CERTIFICATION IF

20 THE QUALIFIED SMALL BUSINESS FAILS TO MAINTAIN THE REQUIRED

21 QUALIFICATIONS. IF A QUALIFIED SMALL BUSINESS FAILS TO MAINTAIN THE

22 QUALIFICATIONS, THE BUSINESS SHALL NOTIFY THE OFFICE WITHIN FIVE

23 BUSINESS DAYS OF FAILING TO MEET THE QUALIFICATIONS. THE OFFICE

24 SHALL REVOKE THE CERTIFICATION OF THE BUSINESS AND MAY ASSESS A

25 PENALTY AGAINST THE BUSINESS ENTITY EQUAL TO THE AMOUNT OF THE

26 COLORADO INNOVATION INVESTMENT TAX CREDITS AUTHORIZED AFTER

27 THE BUSINESS FAILED TO MEET THE QUALIFICATIONS. THE PENALTY SHALL

1 BE DEPOSITED INTO THE STATE GENERAL FUND. IF THE CERTIFICATION IS
2 REVOKED OR EXPIRES, SUBSEQUENT INVESTMENTS IN THE BUSINESS SHALL
3 NOT QUALIFY FOR A TAX CREDIT. ALL TAX CREDITS ISSUED BEFORE ANY
4 EXPIRATION OR REVOCATION OF THE CERTIFICATION SHALL REMAIN VALID.
5 ANY APPLICATION FOR A TAX CREDIT SHALL NOT BE DENIED ON THE BASIS
6 OF THE EXPIRATION OR REVOCATION OF THE CERTIFICATION IF THE
7 INVESTMENT WAS MADE BEFORE THE DATE OF THE EXPIRATION OR
8 REVOCATION.

9 (d) AS PART OF THE APPLICATION FOR A COLORADO INNOVATION
10 INVESTMENT TAX CREDIT, THE APPLICANT AND THE QUALIFIED SMALL
11 BUSINESS THAT RECEIVES THE INVESTMENT SHALL EACH PROVIDE WRITTEN
12 AUTHORIZATION TO PERMIT THE DEPARTMENT OF REVENUE TO PROVIDE
13 TAX INFORMATION TO THE OFFICE FOR THE PURPOSE OF DETERMINING IF
14 THERE ARE ANY MISREPRESENTATIONS ON THE APPLICATION. THE
15 AUTHORIZATION SHALL LIMIT DISCLOSURE TO INCOME TAX INFORMATION
16 FOR THE LATEST TWO YEARS FOR WHICH RETURNS WERE FILED WITH THE
17 DEPARTMENT OF REVENUE PRECEDING THE DATE THE APPLICATION IS
18 FILED AND FOR ALL TAX YEARS THROUGH THE YEAR IN WHICH THE
19 INVESTMENT WAS MADE FOR WHICH A RETURN WAS NOT FILED AS OF THE
20 DATE OF THE APPLICATION. THE APPLICANT SHALL ALSO PROVIDE IN THE
21 WRITTEN AUTHORIZATION INCOME TAX INFORMATION FOR ALL TAX YEARS
22 IN WHICH THE APPLICANT ACTUALLY CLAIMS A TAX CREDIT OR CARRIES
23 FORWARD A TAX CREDIT ON A RETURN FILED WITH THE DEPARTMENT OF
24 REVENUE. AN APPLICANT WITH AN INDIVIDUAL OWNERSHIP INTEREST AS
25 A CO-OWNER OF A BUSINESS AND THAT MAY BE ENTITLED TO A PRO RATA
26 SHARE OF THE TAX CREDIT PURSUANT TO SECTION 39-22-531 (6), C.R.S.,
27 SHALL PROVIDE A WRITTEN AUTHORIZATION WITH CONTENT SIMILAR TO

1 THE AUTHORIZATION, AND IN THE SAME MANNER, AS ANY OTHER
2 APPLICANT IS REQUIRED TO PROVIDE.

3 (e) THE OFFICE SHALL REVIEW AND MAKE A DETERMINATION WITH
4 RESPECT TO EACH APPLICATION FOR A COLORADO INNOVATION
5 INVESTMENT TAX CREDIT WITHIN NINETY DAYS AFTER RECEIVING THE
6 APPLICATION. THE OFFICE MAY REQUEST ADDITIONAL INFORMATION FROM
7 THE APPLICANT IN ORDER TO MAKE AN INFORMED DECISION REGARDING
8 THE ELIGIBILITY OF THE QUALIFIED INVESTOR OR QUALIFIED SMALL
9 BUSINESS.

10 (3) (a) SUBJECT TO THE LIMITATION SET FORTH IN SUBSECTION (4)
11 OF THIS SECTION, THE OFFICE SHALL AUTHORIZE A COLORADO INNOVATION
12 INVESTMENT TAX CREDIT FOR EACH QUALIFIED INVESTOR WHO MAKES A
13 QUALIFIED INVESTMENT IN A QUALIFIED SMALL BUSINESS. THE AMOUNT
14 OF THE CREDIT SHALL BE FIFTEEN PERCENT OF THE AMOUNT OF THE
15 INVESTMENT PER YEAR FOR THE TAXABLE YEAR DURING WHICH THE
16 INVESTMENT IS MADE AND THE FIRST TAXABLE YEAR THEREAFTER; EXCEPT
17 THAT THE TOTAL AMOUNT OF THE CREDIT FOR EACH QUALIFIED INVESTOR
18 SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS AND THE CREDIT
19 MAY BE AUTHORIZED FOR LATER TAXABLE YEARS AS SET FORTH IN
20 PARAGRAPH (b) OF SUBSECTION (4) OF THIS SECTION. THE OFFICE SHALL
21 ISSUE A TAX CREDIT CERTIFICATE TO THE QUALIFIED INVESTOR STATING
22 THE AMOUNT OF THE TAX CREDIT THAT IS AUTHORIZED FOR PURPOSES OF
23 SECTION 39-22-531, C.R.S. THE OFFICE SHALL ISSUE A SEPARATE TAX
24 CREDIT CERTIFICATE FOR EACH TAXABLE YEAR. A TAX CREDIT
25 CERTIFICATE IS NONTRANSFERABLE. THE OFFICE SHALL CERTIFY TO THE
26 DEPARTMENT OF REVENUE THE NAME OF EACH QUALIFIED INVESTOR WHO
27 RECEIVES A TAX CREDIT CERTIFICATE, THE AMOUNT OF THE CERTIFICATE,

1 AND OTHER RELEVANT INFORMATION RELATING TO THE TAX CREDITS.

2 (b) A QUALIFIED INVESTOR SHALL SUBMIT A TAX CREDIT
3 CERTIFICATE AS PART OF A TAX RETURN TO THE DEPARTMENT OF REVENUE
4 IN ACCORDANCE WITH SECTION 39-22-531 (3), C.R.S., BY THE DUE DATE
5 OF THE RETURN, INCLUDING EXTENSIONS, FOR THE TAX YEAR FOR WHICH
6 THE TAX CREDIT CERTIFICATE FIRST APPLIES. IF THE QUALIFIED INVESTOR
7 FAILS TO TIMELY FILE THE TAX CREDIT CERTIFICATE, THE TAX CREDIT
8 EXPIRES FOR THAT TAXABLE YEAR AND THERE SHALL BE NO
9 CARRYFORWARD OF THE EXPIRED CREDIT. CREDITS THAT EXPIRE OR THAT
10 OTHERWISE ARE NOT TIMELY USED BY THE QUALIFIED INVESTOR SHALL
11 NOT BE REISSUED.

12 (4) (a) THE TOTAL AMOUNT OF COLORADO INNOVATION
13 INVESTMENT TAX CREDITS ALLOWED FOR EACH TAX YEAR SHALL NOT
14 EXCEED THREE MILLION DOLLARS.

15 (b) IF QUALIFYING APPLICATIONS IN A TAX YEAR EXCEED THREE
16 MILLION DOLLARS, THE OFFICE SHALL AUTHORIZE COLORADO INNOVATION
17 INVESTMENT TAX CREDITS IN THE ORDER OF THE DATE AND TIME THAT THE
18 APPLICATIONS ARE RECEIVED BY THE OFFICE, AS EVIDENCED BY THE TIME
19 AND DATE THAT THE OFFICE RECEIVED THE APPLICATION. IF AN
20 APPLICATION IS RECEIVED THAT, IF AUTHORIZED, WOULD REQUIRE THE
21 OFFICE TO EXCEED THE THREE MILLION DOLLAR LIMIT, THE OFFICE SHALL
22 ONLY GRANT THE APPLICANT THE REMAINING AMOUNT OF TAX CREDITS
23 THAT WOULD NOT EXCEED THE THREE MILLION DOLLAR LIMIT. IF AN
24 APPLICATION IS NOT GRANTED BECAUSE THE THREE MILLION DOLLAR LIMIT
25 HAS BEEN EXCEEDED, THE OFFICE SHALL AUTHORIZE THE CREDIT FOR THE
26 NEXT TWO TAXABLE YEARS IN WHICH THE LIMIT HAS NOT BEEN EXCEEDED.

27 (5) THE OFFICE SHALL PROVIDE TO THE DEPARTMENT OF REVENUE

1 NECESSARY INFORMATION REQUIRED TO ADMINISTER SECTION 39-22-531,
2 C.R.S. IF THE OFFICE SUBSEQUENTLY DISCOVERS THAT AN APPLICANT WHO
3 RECEIVED A COLORADO INNOVATION INVESTMENT TAX CREDIT
4 MISREPRESENTED INFORMATION ON THE APPLICATION, THE OFFICE SHALL
5 IMMEDIATELY NOTIFY THE DEPARTMENT OF REVENUE AND PROVIDE THE
6 DEPARTMENT OF REVENUE ALL INFORMATION THAT RELATES TO THAT
7 APPLICANT. IF THE DEPARTMENT OF REVENUE DETERMINES THAT THERE
8 HAS BEEN A MISREPRESENTATION ON THE APPLICATION, THE DEPARTMENT
9 OF REVENUE SHALL DENY THE TAX CREDIT IF THE MISREPRESENTATION
10 RELATES TO WHETHER THE APPLICANT WAS A QUALIFIED INVESTOR OR
11 MADE A QUALIFIED INVESTMENT. IF THE MISREPRESENTATION RELATES TO
12 WHETHER THE INVESTMENT WAS MADE TO A QUALIFIED SMALL BUSINESS,
13 THE DEPARTMENT OF REVENUE SHALL DENY THE TAX CREDIT ONLY IF THE
14 APPLICANT KNEW OR SHOULD HAVE KNOWN AT ANY TIME BEFORE THE
15 CERTIFICATION THAT THE REPRESENTATION WAS FALSE.

16 (6) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
17 CONTRARY, THE OFFICE SHALL NOT AUTHORIZE COLORADO INNOVATION
18 INVESTMENT TAX CREDITS FOR TAX YEARS COMMENCING ON OR AFTER
19 JANUARY 1, 2015.

20 **SECTION 3.** 39-21-113, Colorado Revised Statutes, is amended
21 BY THE ADDITION OF A NEW SUBSECTION to read:

22 **39-21-113. Reports and returns - repeal.**

23 (18) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THE
24 EXECUTIVE DIRECTOR SHALL PROVIDE THE COLORADO OFFICE OF
25 ECONOMIC DEVELOPMENT WITH INFORMATION AS REQUIRED PURSUANT TO
26 SECTION 24-48.5-111 (2) (d), C.R.S.

27 **SECTION 4.** Part 5 of article 22 of title 39, Colorado Revised

1 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
2 read:

3 **39-22-531. Colorado innovation investment tax credit -**
4 **definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
5 OTHERWISE REQUIRES:

6 (a) "COLORADO INNOVATION INVESTMENT TAX CREDIT" OR "TAX
7 CREDIT" MEANS THE CREDIT AGAINST INCOME TAX CREATED IN THIS
8 SECTION.

9 (b) "QUALIFIED INVESTMENT" SHALL HAVE THE SAME MEANING AS
10 SET FORTH IN SECTION 24-48.5-111 (1) (g), C.R.S.

11 (c) "QUALIFIED INVESTOR" SHALL HAVE THE SAME MEANING AS
12 SET FORTH IN SECTION 24-48.5-111 (1) (h), C.R.S.

13 (d) "QUALIFIED SMALL BUSINESS" SHALL HAVE THE SAME
14 MEANING AS SET FORTH IN SECTION 24-48.5-111 (1) (i), C.R.S.

15 (e) "TAX CREDIT CERTIFICATE" MEANS A TAX CREDIT CERTIFICATE
16 ISSUED TO A QUALIFIED INVESTOR PURSUANT TO SECTION 24-48.5-111 (3),
17 C.R.S.

18 (2) THERE SHALL BE ALLOWED A COLORADO INNOVATION
19 INVESTMENT TAX CREDIT AGAINST THE INCOME TAXES IMPOSED PURSUANT
20 TO THIS ARTICLE FOR A QUALIFIED INVESTMENT IN A QUALIFIED SMALL
21 BUSINESS. THE AMOUNT OF THE CREDIT IS THE AMOUNT DETERMINED AND
22 AUTHORIZED BY THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT
23 PURSUANT TO SECTION 24-48.5-111, C.R.S., AND SET FORTH IN A TAX
24 CREDIT CERTIFICATE.

25 (3) TO CLAIM THE COLORADO INNOVATION INVESTMENT TAX
26 CREDIT, THE TAXPAYER SHALL ATTACH TO THE TAXPAYER'S TAX RETURN
27 A COPY OF THE TAX CREDIT CERTIFICATE. NO TAX CREDIT IS ALLOWED

1 UNDER THIS SECTION UNLESS THE TAXPAYER PROVIDES THE COPY OF THE
2 TAX CREDIT CERTIFICATE.

3 (4) THE BASIS OF ANY INVESTMENT WITH RESPECT TO WHICH THE
4 TAXPAYER HAS CLAIMED A COLORADO INNOVATION INVESTMENT TAX
5 CREDIT SHALL BE REDUCED BY THE AMOUNT OF THE TAX CREDIT CLAIMED
6 WITH RESPECT TO THAT INVESTMENT.

7 (5) IF THE ALLOWABLE COLORADO INNOVATION INVESTMENT TAX
8 CREDIT EXCEEDS THE AMOUNT OF INCOME TAX DUE ON THE INCOME OF
9 THE TAXPAYER FOR THE TAXABLE YEAR, THE AMOUNT OF THE TAX CREDIT
10 NOT USED AS AN OFFSET AGAINST INCOME TAXES IN SUCH INCOME TAX
11 YEAR SHALL NOT BE ALLOWED AS A REFUND, BUT MAY BE CARRIED
12 FORWARD AND APPLIED AGAINST THE INCOME TAX DUE IN EACH OF THE
13 FIVE SUCCEEDING INCOME TAX YEARS, BUT SHALL BE FIRST APPLIED
14 AGAINST THE INCOME TAX DUE FOR THE EARLIEST OF THE INCOME TAX
15 YEARS POSSIBLE. ANY AMOUNT OF THE TAX CREDIT THAT IS NOT USED
16 AFTER SAID PERIOD SHALL NOT BE REFUNDABLE.

17 (6) INDIVIDUALS WHO ARE CO-OWNERS OF A BUSINESS, INCLUDING
18 PARTNERS IN A PARTNERSHIP AND SHAREHOLDERS OF AN S CORPORATION,
19 MAY EACH CLAIM ONLY THEIR INDIVIDUAL PRO RATA SHARES OF THE
20 COLORADO INNOVATION INVESTMENT TAX CREDIT ALLOWED UNDER THIS
21 SECTION BASED ON THEIR OWNERSHIP INTERESTS. THE TOTAL OF THE TAX
22 CREDITS ALLOWED TO ALL SUCH OWNERS MAY NOT EXCEED THE AMOUNT
23 THAT WOULD HAVE BEEN ALLOWED TO A SOLE OWNER.

24 (7) IF THE DEPARTMENT OF REVENUE DETERMINES THAT THERE
25 HAS BEEN A MISREPRESENTATION ON AN APPLICATION SUBMITTED TO THE
26 COLORADO OFFICE OF ECONOMIC DEVELOPMENT PURSUANT TO SECTION
27 24-48.5-111, C.R.S., THE DEPARTMENT OF REVENUE SHALL DENY THE

1 COLORADO INNOVATION INVESTMENT TAX CREDIT IF THE
2 MISREPRESENTATION RELATES TO WHETHER THE APPLICANT WAS A
3 QUALIFIED INVESTOR OR MADE A QUALIFIED INVESTMENT. IF THE
4 MISREPRESENTATION RELATES TO WHETHER THE INVESTMENT WAS MADE
5 TO A QUALIFIED SMALL BUSINESS, THE DEPARTMENT OF REVENUE SHALL
6 DENY THE TAX CREDIT ONLY IF THE APPLICANT KNEW OR SHOULD HAVE
7 KNOWN AT ANY TIME BEFORE THE CERTIFICATION THAT THE
8 REPRESENTATION WAS FALSE.

9 **SECTION 5. Act subject to petition - effective date.** This act
10 shall take 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 that is
12 allowed for submitting a referendum petition pursuant to article V,
13 section 1 (3) of the state constitution, (August 4, 2009, if adjournment
14 sine die is on May 6, 2009); except that, if a referendum petition is filed
15 against this act or an item, section, or part of this act within such period,
16 then the act, item, section, or part, if approved by the people, shall take
17 effect on the date of the official declaration of the vote thereon by
18 proclamation of the governor.