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SENATE BILL 11-047

BY SENATOR(S) Heath, Aguilar, Bacon, Boyd, Foster, Giron, Guzman, Jahn, Newell, Nicholson, Schwartz, Steadman, Williams S., Johnston; also REPRESENTATIVE(S) Gerou and Riesberg, Fischer, Kefalas, Labuda, Miklosi, Pace, Ryden, Schafer S., Todd, Vigil, Williams A., Wilson.

CONCERNING FUNDING TO SUPPORT INNOVATIVE INDUSTRIES, AND, IN CONNECTION THEREWITH, CREATING THE "COLORADO BIOSCIENCE AND CLEAN TECHNOLOGY INNOVATION REINVESTMENT ACT".

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

**SECTION 1.** Part 6 of article 22 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**39-22-604.3. Innovation reinvestment - withholding - transfers - bioscience - clean technology - legislative declaration - definitions - repeal.** (1) THIS SECTION SHALL BE KNOWN AND MAY BE CITED AS THE "COLORADO BIOSCIENCE AND CLEAN TECHNOLOGY INNOVATION REINVESTMENT ACT".

(2) (a) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

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

(I) RECENT LEGISLATIVE INITIATIVES TO EXPAND THE BIOSCIENCE AND CLEAN TECHNOLOGY SEGMENTS OF THE COLORADO ECONOMY HAVE BEEN BOTH ECONOMICALLY SUCCESSFUL AND SUPPORTIVE OF COLORADO'S HIGHER EDUCATION RESEARCH INSTITUTIONS;

(II) SUCH INITIATIVES HAVE DEMONSTRATED THE POTENTIAL FOR ESTABLISHING COLORADO AS A NATIONAL LEADER IN BIOSCIENCE AND CLEAN TECHNOLOGY;

(III) COLORADO EFFORTS HAVE BEEN RECOGNIZED AS BEST PRACTICES FOR ECONOMIC DEVELOPMENT OF THESE INDUSTRY SECTORS;

(IV) THOSE EFFORTS HAVE ALSO DEMONSTRATED THE POTENTIAL TO EXPAND THE ROLE OF COLORADO'S HIGHER EDUCATION RESEARCH INSTITUTIONS IN THESE AREAS; AND

(V) THE PARTNERSHIPS CREATED BETWEEN HIGHER EDUCATION RESEARCH INSTITUTIONS AND INDUSTRY THROUGH THESE INITIATIVES PROVIDE A MODEL FOR ECONOMIC DEVELOPMENT.

(b) THE GENERAL ASSEMBLY THEREFORE DECLARES THAT IT IS IN THE BEST INTEREST OF THE STATE TO BUILD ON PAST SUCCESSES AND PROVIDE A LONG-TERM FUNDING STREAM THAT ENABLES THE GROWTH OF THE BIOSCIENCE AND CLEAN TECHNOLOGY INDUSTRIES IN THE STATE AND TO SUPPORT COLORADO'S HIGHER EDUCATION RESEARCH INSTITUTIONS.

(3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "BIOSCIENCE AND CLEAN TECHNOLOGY INCOME TAX WITHHOLDING GROWTH" MEANS AN AMOUNT EQUAL TO THE WITHHOLDING BASE SUBTRACTED FROM THE PRIOR YEAR'S WITHHOLDING TOTAL.

(b) "BIOSCIENCE OR CLEAN TECHNOLOGY INDUSTRY CODE" MEANS ANY OF THE FOLLOWING CODES WITHIN THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM ESTABLISHED BY THE FEDERAL OFFICE OF MANAGEMENT AND BUDGET: 311221, 311222, 311223, 325193, 325199, 325221, 325311, 325312, 325314, 325320, 325411, 325412, 325413, 325414, 334510, 334516, 334517, 339111, 339112, 339113, 339114,

339115, 339116, 541380, 541710, 621511, 621512, 221111, 221119, 221330, 237110, 237130, 238220, 325188, 325193, 333414, 333611, 334413, 334512, 335312, 335911, 335999, 336111, 423720, 541380, 541620, 541690, AND 541712.

(c) "PRIOR YEAR'S WITHHOLDING TOTAL" MEANS THE TOTAL AMOUNT DEDUCTED AND WITHHELD FROM EMPLOYEES' WAGES AND PAID TO THE DEPARTMENT OF REVENUE PURSUANT TO SECTION 39-22-604 BY EMPLOYERS WITH A CLEAN TECHNOLOGY INDUSTRY CODE FOR THE TARGET YEAR.

(d) "TARGET YEAR" MEANS 2013 WITH RESPECT TO THE MONEYS REQUIRED TO BE CREDITED TO THE SPECIFIED CASH FUNDS BEGINNING ON MARCH 1, 2014, PURSUANT TO SUBSECTION (4) OF THIS SECTION AND ONE CALENDAR YEAR LATER FOR EACH SUCCESSIVE YEAR IN WHICH MONEYS ARE CREDITED PURSUANT TO SAID SUBSECTION (4).

(e) "WITHHOLDING BASE" MEANS THE ANNUAL AVERAGE OF THE TOTAL AMOUNT DEDUCTED AND WITHHELD FROM EMPLOYEES' WAGES AND PAID TO THE DEPARTMENT OF REVENUE PURSUANT TO SECTION 39-22-604 BY EMPLOYERS WITH A BIOSCIENCE OR CLEAN TECHNOLOGY INDUSTRY CODE FOR THE THREE CALENDAR YEARS PRIOR TO THE TARGET YEAR.

(4) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, BEGINNING MARCH 1, 2014, AND MARCH 1 OF THE NEXT NINE YEARS THEREAFTER, THE STATE TREASURER SHALL CREDIT AN AMOUNT EQUAL TO ONE-HALF OF THE BIOSCIENCE AND CLEAN TECHNOLOGY INCOME TAX WITHHOLDING GROWTH FROM THE MONEYS REMITTED BY EMPLOYERS TO THE DEPARTMENT OF REVENUE PURSUANT TO SECTION 39-22-604 TO THE BIOSCIENCE DISCOVERY EVALUATION CASH FUND CREATED IN SECTION 24-48.5-108 (5), C.R.S., AND THE CLEAN TECHNOLOGY DISCOVERY EVALUATION CASH FUND CREATED IN SECTION 24-48.5-111 (5), C.R.S., WITH EACH FUND RECEIVING AN EQUAL SHARE.

(5) NO LATER THAN FEBRUARY 1, 2014, AND FEBRUARY 1 OF THE NEXT NINE YEARS THEREAFTER, THE EXECUTIVE DIRECTOR SHALL NOTIFY THE STATE TREASURER OF THE WITHHOLDING BASE AND THE PRIOR YEAR'S WITHHOLDING TOTAL THAT APPLY TO THE MONEYS REQUIRED TO BE CREDITED BEGINNING ON MARCH 1 OF THAT YEAR.

(6) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2024.

**SECTION 2.** 24-48.5-108 (5) (a) and (6), Colorado Revised Statutes, are amended to read:

**24-48.5-108. Bioscience research - evaluation - grants - fund - definitions - repeal.** (5) **Fund.** (a) There is hereby created in the state treasury the bioscience discovery evaluation cash fund, referred to in this section as the "fund", that shall consist of moneys that are transferred to the fund pursuant to section 12-47.1-701 (4) (a), C.R.S., any moneys transferred to the fund pursuant to paragraph (e) of subsection (3) of this section, ~~MONEYS CREDITED TO THE FUND PURSUANT TO SECTION 39-22-604.3, C.R.S.,~~ and any other moneys appropriated to the fund by the general assembly. The moneys in the fund shall be subject to annual appropriation by the general assembly for the purposes specified in this section, including administration of the program by the Colorado office of economic development. Any moneys in the fund not expended for the purpose of this section 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 credited 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 another fund; except that any unexpended and unencumbered moneys remaining in the fund upon the repeal of this section shall be transferred to the general fund. Any moneys included in an annual appropriation that are not expended or encumbered at the end of the fiscal year shall remain available for expenditure in the next fiscal year without further appropriation.

(6) This section is repealed, effective ~~July 1, 2013~~ JULY 1, 2024.

**SECTION 3.** 24-48.5-111 (5) (a) and (6), Colorado Revised Statutes, are amended to read:

**24-48.5-111. Clean technology discovery evaluation grant program - clean technology research - evaluation - fund - definitions - repeal.** (5) **Fund.** (a) There is hereby created in the state treasury the clean technology discovery evaluation cash fund that shall consist of moneys that are credited to the fund pursuant to paragraph (b) or (c) of this subsection (5) ~~AND CREDITED PURSUANT TO SECTION 39-22-604.3, C.R.S.~~ The moneys in the fund shall be subject to annual appropriation by the general assembly to the Colorado office of economic development for the direct and indirect costs associated with the implementation of the program.

Any moneys in the fund not expended for the purpose of this section 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 credited 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 another fund.

(6) **Repeal.** This section is repealed, effective ~~July 1, 2014~~ JULY 1, 2024.

**SECTION 4. Act subject to petition - effective date.** This act shall take effect July 1, 2012; 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 shall not take effect unless approved by the people at the

general election to be held in November 2012 and shall take effect on July 1, 2012, or on the date of the official declaration of the vote thereon by the governor, whichever is later.

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Brandon C. Shaffer  
PRESIDENT OF  
THE SENATE

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Frank McNulty  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Cindi L. Markwell  
SECRETARY OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_

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John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO