

Second Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0133.01 Esther van Mourik x4215

HOUSE BILL 14-1305

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HOUSE SPONSORSHIP

McCann and Sonnenberg,

SENATE SPONSORSHIP

Hodge and Brophy,

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House Committees

Finance  
Appropriations

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING A TAXPAYER'S ABILITY TO SEEK A REFUND OF  
102 ENTERPRISE ZONE INVESTMENT TAX CREDIT CARRYOVERS  
103 ALLOWED FOR RENEWABLE ENERGY INVESTMENTS AS SUCH  
104 INVESTMENTS ARE CURRENTLY DEFINED IN LAW.

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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://www.leg.state.co.us/billsummaries>.)*

Current law allows an income tax credit for taxpayers who make certain investments in an enterprise zone. If an allowed tax credit is more

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.*

than a taxpayer may claim, the excess credit becomes an investment tax credit carryover for a number of years depending on the type of investment and when it was made. The bill allows a taxpayer making a renewable energy investment to annually elect, including in the year a qualified investment is made, to reduce the taxpayer's investment tax credit carryover and receive a refund in an amount up to \$2.5 million per income tax year. For every 85 cents received as a refund, the taxpayer's investment tax credit carryover is reduced by one dollar. The bill requires the taxpayer to make an election on the taxpayer's original income tax return.

The bill also requires a taxpayer electing to receive a refund to file a one-time affidavit with the Colorado economic development commission no later than the date of the taxpayer's first refund election that states it is the taxpayer's intention to make further renewable energy investments within 5 years of the date of the affidavit.

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

2           **SECTION 1. Legislative declaration.** The general assembly  
3 finds and declares that the goal of the tax expenditure in this act is to  
4 allow for the reduction in the state's overall liability for certified  
5 enterprise zone investment tax credits by allowing taxpayers who make  
6 renewable energy investments in an enterprise zone to elect to monetize  
7 their tax credit carryover by up to two million five hundred thousand  
8 dollars annually. For every eighty-five cents that a taxpayer receives as  
9 a refund, the taxpayer's investment tax credit carryover is reduced by one  
10 dollar, thus reducing the state's liability for existing and future enterprise  
11 zone investment tax credit carryovers by fifteen percent. This change  
12 ensures continued investment in renewable energy projects in the state's  
13 enterprise zones and helps Colorado remain competitive with neighboring  
14 renewable energy markets. The general assembly further finds and  
15 declares that this change in tax policy is intended to increase renewable  
16 energy investment and thus increase associated jobs and expand the tax  
17 base in rural Colorado.

1           **SECTION 2.** In Colorado Revised Statutes, 39-30-104, **amend**  
2 (2) (c) (III), (2.5) (a), and (2.7); and **add** (2.6) as follows:

3           **39-30-104. Credit against tax - investment in certain property**  
4 **- definition.** (2) (c) (III) (A) Except as provided in sub-subparagraph (B)  
5 of this subparagraph (III) AND IN SUBSECTION (2.6) OF THIS SECTION, any  
6 excess credit allowed pursuant to this paragraph (c) shall be an  
7 investment tax credit carryover to each of the fourteen income tax years  
8 following the unused credit year.

9           (B) EXCEPT AS PROVIDED IN SUBSECTION (2.6) OF THIS SECTION,  
10 any excess credit allowed pursuant to this paragraph (c) for a renewable  
11 energy investment made in an income tax year commencing before  
12 January 1, 2018, shall be an investment tax credit carryover for  
13 twenty-two income tax years following the year the credit was originally  
14 allowed.

15           (2.5) (a) (I) Notwithstanding the provisions of section 39-22-507.5  
16 (7) (b), and except as ~~otherwise~~ provided in subparagraph (II) of this  
17 paragraph (a), ~~and~~ paragraph (b) of this subsection (2.5), AND  
18 SUBSECTION (2.6) OF THIS SECTION, any excess credit allowed pursuant to  
19 this section shall be an investment tax credit carryover to each of the  
20 twelve income tax years following the unused credit year.

21           (II) EXCEPT AS PROVIDED IN SUBSECTION (2.6) OF THIS SECTION,  
22 any excess credit claimed pursuant to this section for a renewable energy  
23 investment made in an income tax year commencing before January 1,  
24 2018, shall be an investment tax credit carryover for twenty income tax  
25 years following the year the credit was originally allowed.

26           (2.6) (a) IN EACH INCOME TAX YEAR COMMENCING ON OR AFTER  
27 JANUARY 1, 2014, A TAXPAYER WHO HAS MADE A RENEWABLE ENERGY

1 INVESTMENT PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION (2.6) OR  
2 WHO MAKES A RENEWABLE ENERGY INVESTMENT ON OR AFTER THE  
3 EFFECTIVE DATE OF THIS SUBSECTION (2.6) THAT RESULTED IN AN  
4 INVESTMENT TAX CREDIT CARRYOVER PURSUANT TO SUB-SUBPARAGRAPH  
5 (B) OF SUBPARAGRAPH (III) OF PARAGRAPH (c) OF SUBSECTION (2) OF THIS  
6 SECTION AND SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (2.5)  
7 OF THIS SECTION MAY ANNUALLY ELECT, INCLUDING IN THE YEAR A  
8 QUALIFIED INVESTMENT IS MADE, TO REDUCE ITS INVESTMENT TAX CREDIT  
9 CARRYOVER AND RECEIVE A REFUND IN AN AMOUNT UP TO TWO MILLION  
10 FIVE HUNDRED THOUSAND DOLLARS AS FOLLOWS:

11 (I) FOR EVERY EIGHTY-FIVE CENTS RECEIVED AS A REFUND, THE  
12 TAXPAYER'S INVESTMENT TAX CREDIT CARRYOVER PURSUANT TO  
13 SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (III) OF PARAGRAPH (c) OF  
14 SUBSECTION (2) OF THIS SECTION AND SUBPARAGRAPH (II) OF PARAGRAPH  
15 (a) OF SUBSECTION (2.5) OF THIS SECTION IS REDUCED BY ONE DOLLAR;  
16 AND

17 (II) THE TAXPAYER SHALL MAKE SUCH AN ELECTION ON THE  
18 TAXPAYER'S ORIGINAL INCOME TAX RETURN.

19 (b) A TAXPAYER ELECTING TO RECEIVE A REFUND PURSUANT TO  
20 THIS SUBSECTION (2.6) SHALL FILE A ONE-TIME AFFIDAVIT WITH THE  
21 COLORADO ECONOMIC DEVELOPMENT COMMISSION NO LATER THAN THE  
22 DATE OF THE TAXPAYER'S FIRST REFUND ELECTION THAT STATES IT IS THE  
23 TAXPAYER'S INTENTION TO MAKE FURTHER RENEWABLE ENERGY  
24 INVESTMENTS WITHIN FIVE YEARS OF THE DATE OF THE AFFIDAVIT.

25 (2.7) (a) The Colorado economic development commission shall  
26 annually post on its web site or on the Colorado office of economic  
27 development's web site the following information regarding any

- 1 enterprise zone investment tax credit certified under this section:
- 2 (a) (I) The enterprise zone for the certified credit;
  - 3 (b) (II) The name of the taxpayer or business;
  - 4 (c) (III) The type of business;
  - 5 (d) (IV) The tax year for which the credit is certified;
  - 6 (e) (V) The total qualified investment reported;
  - 7 (f) (VI) Whether the credit is for a renewable energy investment
  - 8 as defined in subsection (2.8) of this section;
  - 9 (g) (VII) The amount of the qualified investment that qualifies for
  - 10 the credit;
  - 11 (h) (VIII) The calculated credit; and
  - 12 (i) (IX) The county where the qualified investment is made.

13 (b) NO LATER THAN NOVEMBER 1, 2019, THE COLORADO  
14 ECONOMIC DEVELOPMENT COMMISSION SHALL POST ON ITS WEB SITE OR  
15 ON THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT'S WEB SITE THE  
16 LEVEL OF RENEWABLE ENERGY INVESTMENT ON AND AFTER THE EFFECTIVE  
17 DATE OF THIS SUBSECTION (2.7), AS AMENDED.

18 **SECTION 3. Safety clause.** The general assembly hereby finds,  
19 determines, and declares that this act is necessary for the immediate  
20 preservation of the public peace, health, and safety.