

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

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 07-0301.01 Nicole Myers

HOUSE BILL 07-1027

HOUSE SPONSORSHIP

Witwer,

SENATE SPONSORSHIP

Taylor,

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING TECHNICAL MODIFICATIONS TO CERTAIN TAX CREDITS**
102 **ALLOWED TO QUALIFIED TAXPAYERS AS ECONOMIC**
103 **DEVELOPMENT INCENTIVES.**

Bill Summary

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

Clarifies that the income tax credit allowed to taxpayers that make contributions to enterprise zone administrators to implement economic development plans is allowed for income tax years commencing on or after January 1, 1989, rather than for income tax years commencing on or after January 1, 2000. Clarifies that on and after January 1, 2000, the Colorado economic development commission, rather than the department

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.

HOUSE
2nd Reading Unamended
January 19, 2007

of local affairs, designates the administrator of an enterprise zone.

Relocates the definitions pertaining to the income tax credit allowed to taxpayers that hire new business facility employees in an enterprise zone.

Repeals obsolete provisions regarding an income tax credit for taxpayers that operate new business facilities. Makes conforming amendments.

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

2 **SECTION 1.** 39-30-103.5 (1) (a) (I), Colorado Revised Statutes,
3 is amended to read:

4 **39-30-103.5. Credit against tax - contributions to enterprise**
5 **zone administrators to implement economic development plans.**

6 (1) (a) (I) Except as otherwise provided in subparagraph (II) of this
7 paragraph (a), for income tax years commencing on or after ~~January 1,~~
8 ~~2000~~ JANUARY 1, 1989, any taxpayer who makes a monetary or in-kind
9 contribution for the purpose of implementing the economic development
10 plan for the enterprise zone to the person or agency ~~that has been~~
11 designated as the enterprise zone administrator by the DEPARTMENT OF
12 LOCAL AFFAIRS, AND ON OR AFTER JANUARY 1, 2000, BY THE PERSON OR
13 AGENCY DESIGNATED AS THE ENTERPRISE ZONE ADMINISTRATOR BY THE
14 Colorado economic development commission, shall be allowed a credit
15 against the income tax imposed by article 22 of this title in an amount
16 equal to fifty percent of the total value of the contribution as certified by
17 the enterprise zone administrator.

18 **SECTION 2.** 39-30-105 (1) (a) (I), (1) (a) (IV), (2), and (3) (a),
19 Colorado Revised Statutes, are amended, and the said 39-30-105 is
20 further amended BY THE ADDITION OF THE FOLLOWING NEW
21 SUBSECTIONS, to read:

22 **39-30-105. Credit for new business facility employees -**

1 **definitions.** (1) (a) (I) For any income tax year commencing on or after
2 January 1, 1993, any taxpayer who establishes a new business facility in
3 an enterprise zone as defined in section 39-22-508.2 (3) but excluding the
4 requirements of paragraph (b) of that subsection, shall be allowed a credit
5 against the income tax imposed by article 22 of this title in an amount
6 equal to five hundred dollars per income tax year for each new business
7 facility employee, as determined under PURSUANT TO SUBSECTION (6) OF
8 THIS section, 39-22-508.2 but without regard to section 39-22-508.2 (3)
9 (b) and without regard to whether the tax credit allowed by section
10 39-22-508.3 is claimed, who is working within the zone, prorated
11 according to the number of months the new business facility employee
12 was employed by the taxpayer during the income tax year. A new
13 business facility AN employee whose primary duties consist of operating
14 a commercial motor vehicle with a commercial driver's license shall be
15 deemed to be working one hundred percent within the zone if the
16 employee spends no more than five percent of his or her total time at any
17 facility of the employer other than the facility within the zone.

18 (IV) A new business facility qualifying for credit shall be allowed
19 the credit for each subsequent tax year for each additional new business
20 facility employee in excess of the maximum number employed in any
21 prior tax year. Any credit shall be allowed for a maximum of twelve
22 consecutive months for each new business facility employee employed by
23 the taxpayer. Any special tax credit for new business facility employees
24 allowed pursuant to this subsection (1) shall be in lieu of any credit that
25 the taxpayer might otherwise obtain pursuant to section 39-22-508.3 for
26 the same income tax year.

27 (2) For such new business facilities in enterprise zones or

1 enhanced rural enterprise zones, the number of new business facility
2 employees engaged or maintained in employment at the new business
3 facility for each taxable year for which the credit is claimed must equal
4 or exceed one person. ~~section 39-22-508.3 (1) notwithstanding.~~

5 (3) (a) Any taxpayer who operates a business within an enterprise
6 zone that adds value through manufacturing or processing to agricultural
7 commodities shall be allowed ~~in lieu of the credit under section~~
8 ~~39-22-508.3~~ but in addition to the credit allowed under subsection (1) of
9 this section, while located in ~~such~~ THE enterprise zone, a credit against the
10 income tax imposed by article 22 of this title in an amount equal to five
11 hundred dollars for each additional new business facility employee in
12 excess of the maximum number employed in any prior tax year.

13 (6) (a) THE NUMBER OF NEW BUSINESS FACILITY EMPLOYEES
14 DURING ANY TAXABLE YEAR SHALL BE DETERMINED BY DIVIDING BY
15 TWELVE THE SUM OF THE NUMBER OF NEW BUSINESS FACILITY EMPLOYEES
16 ON THE LAST BUSINESS DAY OF EACH MONTH OF SUCH TAXABLE YEAR. IF
17 THE NEW BUSINESS FACILITY IS IN OPERATION FOR LESS THAN THE ENTIRE
18 TAXABLE YEAR, THE NUMBER OF NEW BUSINESS FACILITY EMPLOYEES
19 SHALL BE DETERMINED BY DIVIDING THE SUM OF THE NUMBER OF NEW
20 BUSINESS FACILITY EMPLOYEES ON THE LAST BUSINESS DAY OF EACH FULL
21 CALENDAR MONTH DURING THE PORTION OF THE TAXABLE YEAR DURING
22 WHICH THE NEW BUSINESS FACILITY WAS IN OPERATION BY THE NUMBER
23 OF FULL CALENDAR MONTHS DURING THE PERIOD.

24 (b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
25 THIS SUBSECTION (6), FOR THE PURPOSE OF DETERMINING THE CREDIT
26 ALLOWED BY THIS SECTION IN THE CASE OF A FACILITY THAT QUALIFIES AS
27 A NEW BUSINESS FACILITY BUT IS A REPLACEMENT BUSINESS FACILITY, THE

1 NUMBER OF NEW BUSINESS FACILITY EMPLOYEES EMPLOYED IN THE
2 OPERATION OF THE FACILITY SHALL BE REDUCED BY THE AVERAGE
3 NUMBER, DETERMINED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION
4 (6), OF INDIVIDUALS EMPLOYED IN THE OPERATION OF THE FACILITY THAT
5 THE NEW BUSINESS FACILITY REPLACES DURING THE THREE TAXABLE
6 YEARS PRECEDING THE TAXABLE YEAR IN WHICH COMMENCEMENT OF
7 COMMERCIAL OPERATIONS OCCURS AT THE NEW BUSINESS FACILITY.

8 (7) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
9 REQUIRES:

10 (a) "BUILDING" MEANS ONLY STRUCTURES WITHIN WHICH
11 INDIVIDUALS ARE CUSTOMARILY EMPLOYED OR THAT ARE CUSTOMARILY
12 USED TO HOUSE MACHINERY, EQUIPMENT, OR OTHER PROPERTY.

13 (b) "COMMENCEMENT OF COMMERCIAL OPERATIONS" MEANS THE
14 FIRST TAXABLE YEAR THAT THE NEW BUSINESS FACILITY IS FIRST
15 AVAILABLE FOR USE BY THE TAXPAYER, OR FIRST CAPABLE OF BEING USED
16 BY THE TAXPAYER, IN THE REVENUE-PRODUCING ENTERPRISE IN WHICH
17 THE TAXPAYER INTENDS TO USE THE NEW BUSINESS FACILITY.

18 (c) (I) "FACILITY" MEANS ANY FACTORY, MILL, PLANT, REFINERY,
19 WAREHOUSE, FEEDLOT, BUILDING, OR COMPLEX OF BUILDINGS LOCATED
20 WITHIN THE STATE, INCLUDING THE LAND ON WHICH THE FACILITY IS
21 LOCATED AND ALL MACHINERY, EQUIPMENT, AND OTHER REAL AND
22 TANGIBLE PERSONAL PROPERTY LOCATED AT OR WITHIN THE FACILITY AND
23 USED IN CONNECTION WITH THE OPERATION OF THE FACILITY.

24 (II) (A) IF A FACILITY THAT DOES NOT CONSTITUTE A NEW
25 BUSINESS FACILITY IS EXPANDED BY THE TAXPAYER, THE EXPANSION
26 SHALL BE CONSIDERED A SEPARATE FACILITY ELIGIBLE FOR THE CREDIT
27 ALLOWED BY THIS SECTION IF: THE TAXPAYER'S INVESTMENT IN THE

1 EXPANSION EXCEEDS ONE MILLION DOLLARS OR THE INVESTMENT IS LESS
2 THAN ONE MILLION DOLLARS BUT THE INVESTMENT IN THE EXPANSION
3 EXCEEDS ONE HUNDRED PERCENT OF THE INVESTMENT IN THE ORIGINAL
4 FACILITY PRIOR TO EXPANSION; AND THE EXPANSION OTHERWISE
5 CONSTITUTES A NEW BUSINESS FACILITY.

6 (B) THE TAXPAYER'S INVESTMENT IN THE EXPANSION AND IN THE
7 ORIGINAL FACILITY PRIOR TO EXPANSION SHALL BE DETERMINED IN THE
8 MANNER PROVIDED IN PARAGRAPH (g) OF THIS SUBSECTION (7).

9 (III) IF A FACILITY THAT DOES NOT CONSTITUTE A NEW BUSINESS
10 FACILITY IS EXPANDED BY THE TAXPAYER, THE EXPANSION SHALL BE
11 CONSIDERED A SEPARATE FACILITY FOR PURPOSES OF THE CREDIT
12 ALLOWED BY THIS SECTION IF:

13 (A) THE EXPANSION RESULTS IN THE EMPLOYMENT OF TEN OR
14 MORE NEW BUSINESS FACILITY EMPLOYEES OR, FOR INCOME TAX YEARS
15 COMMENCING ON OR AFTER JANUARY 1, 1996, A TEN PERCENT INCREASE
16 IN THE NUMBER OF NEW BUSINESS FACILITY EMPLOYEES RESULTING IN THE
17 EMPLOYMENT OF AT LEAST ONE FULL-TIME NEW BUSINESS FACILITY
18 EMPLOYEE, WHICHEVER IS LESS, DURING THE TAXABLE YEAR OVER AND
19 ABOVE THE AVERAGE NUMBER OF EMPLOYEES EMPLOYED IN THE
20 ENTERPRISE ZONE BY THE TAXPAYER DURING THE TWELVE MONTHS
21 IMMEDIATELY PRIOR TO THE EXPANSION, DETERMINED PURSUANT TO
22 SUBSECTION (6) OF THIS SECTION; AND

23 (B) THE EXPANSION OTHERWISE CONSTITUTES A NEW BUSINESS
24 FACILITY.

25 (d) "NET ANNUAL RENTAL RATE" MEANS THE ANNUAL RENTAL
26 RATE PAID BY THE TAXPAYER ON REAL AND TANGIBLE PERSONAL
27 PROPERTY, LESS ANY ANNUAL RENTAL RATE RECEIVED BY THE TAXPAYER

1 FROM SUBRENTALS.

2 (e) "NEW BUSINESS FACILITY" MEANS A FACILITY THAT SATISFIES
3 THE FOLLOWING REQUIREMENTS:

4 (I) THE FACILITY IS OPERATED BY THE TAXPAYER IN THE
5 OPERATION OF A REVENUE-PRODUCING ENTERPRISE. A FACILITY SHALL
6 NOT BE CONSIDERED A NEW BUSINESS FACILITY IN THE HANDS OF THE
7 TAXPAYER IF THE TAXPAYER'S ONLY ACTIVITY WITH RESPECT TO THE
8 FACILITY IS TO LEASE IT TO ANOTHER PERSON. IF THE TAXPAYER
9 OPERATES ONLY A PORTION OF THE FACILITY IN THE OPERATION OF A
10 REVENUE-PRODUCING ENTERPRISE AND LEASES ANOTHER PORTION OF THE
11 FACILITY TO ANOTHER PERSON OR DOES NOT OTHERWISE USE THE OTHER
12 PORTIONS IN THE OPERATION OF A REVENUE-PRODUCING ENTERPRISE, THE
13 PORTION OPERATED BY THE TAXPAYER IN THE OPERATION OF A
14 REVENUE-PRODUCING ENTERPRISE SHALL BE CONSIDERED A NEW BUSINESS
15 FACILITY IF THE REQUIREMENTS OF SUBPARAGRAPHS (II) AND (III) OF THIS
16 PARAGRAPH (e) ARE SATISFIED.

17 (II) IF THE FACILITY WAS ACQUIRED BY THE TAXPAYER FROM
18 ANOTHER PERSON, THE FACILITY WAS NOT OPERATED IMMEDIATELY PRIOR
19 TO THE TRANSFER OF TITLE TO THE FACILITY TO THE TAXPAYER OR
20 IMMEDIATELY PRIOR TO THE COMMENCEMENT OF THE TERM OF THE LEASE
21 OF THE FACILITY TO THE TAXPAYER BY ANY OTHER PERSON IN THE
22 OPERATION OF A REVENUE-PRODUCING ENTERPRISE, AND THE TAXPAYER
23 CONTINUES THE OPERATION OF THE SAME OR A SUBSTANTIALLY IDENTICAL
24 REVENUE-PRODUCING ENTERPRISE AT THE FACILITY.

25 (III) THE FACILITY IS NOT A REPLACEMENT BUSINESS FACILITY.

26 (f) "NEW BUSINESS FACILITY EMPLOYEE" MEANS A PERSON
27 EMPLOYED BY THE TAXPAYER IN THE OPERATION OF A NEW BUSINESS

1 FACILITY DURING THE TAXABLE YEAR FOR WHICH THE CREDIT ALLOWED
2 BY THIS SECTION IS CLAIMED. A PERSON SHALL BE DEEMED AN EMPLOYEE
3 IF THE PERSON PERFORMS DUTIES IN CONNECTION WITH THE OPERATION OF
4 THE NEW BUSINESS FACILITY ON:

5 (I) A REGULAR, FULL-TIME BASIS;

6 (II) A PART-TIME BASIS IF THE PERSON IS CUSTOMARILY
7 PERFORMING HIS OR HER DUTIES AT LEAST TWENTY HOURS PER WEEK
8 THROUGHOUT THE TAXABLE YEAR; OR

9 (III) A SEASONAL BASIS IF THE PERSON PERFORMS HIS OR HER
10 DUTIES FOR SUBSTANTIALLY ALL OF THE SEASON CUSTOMARY FOR THE
11 POSITION IN WHICH THE PERSON IS EMPLOYED.

12 (g) "NEW BUSINESS FACILITY INVESTMENT" MEANS THE VALUE OF
13 THE REAL AND TANGIBLE PERSONAL PROPERTY, EXCEPT INVENTORY OR
14 PROPERTY HELD FOR SALE TO CUSTOMERS IN THE ORDINARY COURSE OF
15 THE TAXPAYER'S BUSINESS, THAT CONSTITUTES THE NEW BUSINESS
16 FACILITY OR THAT IS USED BY THE TAXPAYER IN THE OPERATION OF THE
17 NEW BUSINESS FACILITY DURING THE TAXABLE YEAR FOR WHICH THE
18 CREDIT ALLOWED BY THIS SECTION IS CLAIMED. THE VALUE OF THE
19 PROPERTY DURING THE TAXABLE YEAR SHALL BE:

20 (I) THE ORIGINAL COST OF THE REAL AND TANGIBLE PERSONAL
21 PROPERTY IF OWNED BY THE TAXPAYER; OR

22 (II) EIGHT TIMES THE NET ANNUAL RENTAL RATE OF THE REAL AND
23 TANGIBLE PERSONAL PROPERTY IF LEASED BY THE TAXPAYER.

24 (h) (I) "RELATED TAXPAYER" MEANS:

25 (A) A CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY,
26 TRUST, OR ASSOCIATION CONTROLLED BY THE TAXPAYER;

27 (B) AN INDIVIDUAL, CORPORATION, LIMITED LIABILITY COMPANY,

1 PARTNERSHIP, TRUST, OR ASSOCIATION UNDER THE CONTROL OF THE
2 TAXPAYER; OR

3 (C) A CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP,
4 TRUST, OR ASSOCIATION CONTROLLED BY AN INDIVIDUAL, CORPORATION,
5 LIMITED LIABILITY COMPANY, PARTNERSHIP, TRUST, OR ASSOCIATION
6 UNDER THE CONTROL OF THE TAXPAYER.

7 (II) FOR THE PURPOSES OF THIS PARAGRAPH (h), UNLESS THE
8 CONTEXT OTHERWISE REQUIRES:

9 (A) "CONTROL OF A CORPORATION" MEANS OWNERSHIP, DIRECTLY
10 OR INDIRECTLY, OF STOCK POSSESSING AT LEAST EIGHTY PERCENT OF THE
11 TOTAL COMBINED VOTING POWER OF ALL CLASSES OF STOCK ENTITLED TO
12 VOTE AND AT LEAST EIGHTY PERCENT OF ALL OTHER CLASSES OF STOCK OF
13 THE CORPORATION.

14 (B) "CONTROL OF A PARTNERSHIP, LIMITED LIABILITY COMPANY,
15 OR ASSOCIATION" MEANS OWNERSHIP OF AT LEAST EIGHTY PERCENT OF
16 THE CAPITAL OR PROFITS INTEREST IN THE PARTNERSHIP, LIMITED
17 LIABILITY COMPANY, OR ASSOCIATION.

18 (C) "CONTROL OF A TRUST" MEANS OWNERSHIP, DIRECTLY OR
19 INDIRECTLY, OF AT LEAST EIGHTY PERCENT OF THE BENEFICIAL INTEREST
20 IN THE PRINCIPAL OR INCOME OF THE TRUST.

21 (i) (I) "REPLACEMENT BUSINESS FACILITY" MEANS A FACILITY,
22 OTHERWISE DESCRIBED IN PARAGRAPH (e) OF THIS SUBSECTION (7) AND
23 REFERRED TO IN THIS PARAGRAPH (i) AS A "NEW FACILITY", WHICH
24 REPLACES ANOTHER FACILITY, REFERRED TO IN THIS PARAGRAPH (i) AS AN
25 "OLD FACILITY", LOCATED WITHIN THE STATE THAT THE TAXPAYER OR A
26 RELATED TAXPAYER PREVIOUSLY OPERATED BUT DISCONTINUED
27 OPERATING ON OR BEFORE THE CLOSE OF THE FIRST TAXABLE YEAR IN

1 WHICH THE CREDIT ALLOWED BY THIS SECTION IS CLAIMED. A NEW
2 FACILITY SHALL BE DEEMED TO REPLACE AN OLD FACILITY IF THE
3 FOLLOWING CONDITIONS ARE MET:

4 (A) THE OLD FACILITY WAS OPERATED BY THE TAXPAYER OR A
5 RELATED TAXPAYER FOR MORE THAN THREE FULL TAXABLE YEARS OUT OF
6 THE FIVE TAXABLE YEARS NEXT PRECEDING THE TAXABLE YEAR IN WHICH
7 COMMENCEMENT OF COMMERCIAL OPERATIONS OCCURS AT THE NEW
8 FACILITY; AND

9 (B) THE OLD FACILITY WAS OPERATED BY THE TAXPAYER OR A
10 RELATED TAXPAYER IN THE OPERATION OF A REVENUE-PRODUCING
11 ENTERPRISE AND THE TAXPAYER CONTINUES THE OPERATION OF THE SAME
12 OR A SUBSTANTIALLY IDENTICAL REVENUE-PRODUCING ENTERPRISE AT
13 THE NEW FACILITY.

14 (II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF
15 THIS PARAGRAPH (i), A FACILITY SHALL NOT BE CONSIDERED A
16 REPLACEMENT BUSINESS FACILITY IF THE TAXPAYER'S INVESTMENT IN THE
17 NEW FACILITY EXCEEDS THREE MILLION DOLLARS OR THE INVESTMENT IS
18 LESS THAN THREE MILLION DOLLARS BUT THE INVESTMENT IN THE NEW
19 FACILITY EXCEEDS THREE HUNDRED PERCENT OF THE INVESTMENT IN THE
20 OLD FACILITY BY THE TAXPAYER OR RELATED TAXPAYER. THE
21 INVESTMENT IN THE NEW FACILITY AND IN THE OLD FACILITY SHALL BE
22 DETERMINED IN THE MANNER PROVIDED IN PARAGRAPH (g) OF THIS
23 SUBSECTION (7).

24 (j) "REVENUE-PRODUCING ENTERPRISE" MEANS AN ENTERPRISE
25 THAT ENGAGES IN THE FOLLOWING:

26 (I) THE PRODUCTION, ASSEMBLY, FABRICATION, MANUFACTURING,
27 OR PROCESSING OF ANY AGRICULTURAL, MINERAL, OR MANUFACTURED

1 PRODUCT;

2 (II) THE STORAGE, WAREHOUSING, DISTRIBUTION, OR SALE OF ANY

3 PRODUCTS OF AGRICULTURE, MINING, OR MANUFACTURING;

4 (III) THE FEEDING OF LIVESTOCK AT A FEEDLOT;

5 (IV) THE OPERATION OF LABORATORIES OR OTHER FACILITIES FOR

6 SCIENTIFIC, AGRICULTURAL, ANIMAL HUSBANDRY, OR INDUSTRIAL

7 RESEARCH, DEVELOPMENT, OR TESTING;

8 (V) THE PERFORMANCE OF SERVICES OF ANY TYPE;

9 (VI) THE ADMINISTRATIVE MANAGEMENT OF ANY OF THE

10 ACTIVITIES LISTED IN SUBPARAGRAPHS (I) TO (V) OF THIS PARAGRAPH (j);

11 OR

12 (VII) ANY COMBINATION OF ANY OF THE ACTIVITIES REFERRED TO

13 IN SUBPARAGRAPHS (I) TO (VI) OF THIS PARAGRAPH (j).

14 (k) "SAME OR A SUBSTANTIALLY IDENTICAL REVENUE-PRODUCING

15 ENTERPRISE" MEANS A REVENUE-PRODUCING ENTERPRISE IN WHICH THE

16 PRODUCTS PRODUCED OR SOLD, SERVICES PERFORMED, OR ACTIVITIES

17 CONDUCTED ARE THE SAME IN CHARACTER AND USE AND ARE PRODUCED,

18 SOLD, PERFORMED, OR CONDUCTED IN THE SAME MANNER AND TO OR FOR

19 THE SAME TYPES OF CUSTOMERS AS THE PRODUCTS, SERVICES, OR

20 ACTIVITIES PRODUCED, SOLD, PERFORMED, OR CONDUCTED IN ANOTHER

21 REVENUE-PRODUCING ENTERPRISE.

22 **SECTION 3.** 22-32-110 (1) (ff) (I) and (1) (gg) (I), Colorado

23 Revised Statutes, are amended to read:

24 **22-32-110. Board of education - specific powers.** (1) In

25 addition to any other power granted to a board of education of a school

26 district by law, each board of education of a school district shall have the

27 following specific powers, to be exercised in its judgment:

1 (ff) (I) To negotiate for an incentive payment or credit with any
2 taxpayer who establishes a new business facility, as defined in ~~section~~
3 ~~39-22-508.2 (3), C.R.S., but excluding the requirements of paragraph (b)~~
4 ~~of said subsection (3)~~ SECTION 39-30-105 (7) (e), C.R.S., in ~~such~~ THE
5 school district; however, no negotiations may be entered into with any
6 taxpayer establishing a new business facility unless ~~such~~ THE school
7 district has been notified, pursuant to sections 30-11-123 (5) and
8 31-15-903 (4), C.R.S., by any county and by any municipality in which
9 ~~such~~ THE new business facility would be located of agreements negotiated
10 by ~~such~~ THE local governments with ~~such~~ THE taxpayer. In no instance
11 shall any ~~such~~ negotiation result in an annual incentive payment or credit
12 that exceeds fifty percent of the amount of the taxes levied by the school
13 district upon the taxable personal property located at or within ~~such~~ THE
14 new business facility and used in connection with the operation of ~~such~~
15 THE new business facility for the current property tax year. An agreement
16 negotiated pursuant to this paragraph (ff) prior to July 1, 1994, shall be
17 valid. Any school district that negotiates any agreement pursuant to the
18 provisions of this paragraph (ff) shall inform any county and any
19 municipality in which a new business facility would be located of ~~such~~
20 THE negotiations. The terms of any agreement made pursuant to the
21 provisions of this paragraph (ff) shall not exceed four years; except that
22 the term of any agreement made or amended on or after June 3, 2002,
23 may extend to as many as ten years, including the term of any original
24 agreement being renewed, if the county, and if applicable the
25 municipality, in which a new business facility is established have
26 negotiated agreements with the same taxpayer for the same period
27 pursuant to sections 30-11-123 (1) (b) and 31-15-903 (1) (b), C.R.S.

1 (gg) (I) To negotiate for an incentive payment or credit with any
2 taxpayer who expands a facility, as defined in ~~section 39-22-508.2 (2) (a)~~
3 SECTION 39-30-105 (7) (c), C.R.S., the expansion of which constitutes a
4 new business facility, as defined in ~~section 39-22-508.2 (3), C.R.S., but~~
5 ~~excluding the requirements of paragraph (b) of said subsection (3)~~
6 SECTION 39-30-105 (7) (e), C.R.S., and ~~which~~ THAT is located in ~~such~~ THE
7 school district; however, no negotiations may be entered into with any
8 taxpayer expanding a facility unless ~~such~~ THE school district has been
9 notified, pursuant to sections 30-11-123 (5) and 31-15-903 (4), C.R.S., by
10 any county and by any municipality in which ~~such~~ THE expanded business
11 facility is located of agreements negotiated by ~~such~~ THE local
12 governments with ~~such~~ THE taxpayer. In no instance shall any ~~such~~
13 negotiation result in ~~such~~ an annual incentive payment or credit that is
14 greater than fifty percent of the amount of the taxes levied by the school
15 district upon the taxable personal property directly attributable to ~~such~~
16 THE expansion, located at or within ~~such~~ THE expanded facility, and used
17 in connection with the operation of ~~such~~ THE expanded facility for the
18 current property tax year. An agreement negotiated pursuant to this
19 paragraph (gg) prior to July 1, 1994, shall be valid. Any school district
20 which negotiates any agreement pursuant to the provisions of this
21 paragraph (gg) shall inform any county and any municipality in which an
22 expanded business facility is located of ~~such~~ THE negotiations. The terms
23 of any agreement made pursuant to the provisions of this paragraph (gg)
24 shall not exceed four years; except that the term of any agreement made
25 or amended on or after June 3, 2002, may extend to as many as ten years,
26 including the term of any original agreement being renewed, if the
27 county, and if applicable the municipality, in which an expanded business

1 facility is located have negotiated agreements with the same taxpayer for
2 the same period pursuant to sections 30-11-123 (2) and 31-15-903 (2),
3 C.R.S.

4 **SECTION 4.** 30-11-123 (1) (b) and (2), Colorado Revised
5 Statutes, are amended to read:

6 **30-11-123. Legislative declaration - counties - new business**
7 **facilities - expansion of existing business facilities - incentives -**
8 **limitations - authority to exceed revenue-raising limitations.**

9 (1) (b) Notwithstanding any law to the contrary, any county may
10 negotiate for an incentive payment or credit with any taxpayer who
11 establishes a new business facility, as defined in ~~section 39-22-508.2 (3),~~
12 ~~C.R.S., but excluding the requirements of paragraph (b) of said~~
13 ~~subsection (3)~~ SECTION 39-30-105 (7) (e), C.R.S., in ~~such~~ THE county. In
14 no instance shall any ~~such~~ negotiation result in ~~such~~ an annual incentive
15 payment or credit that is greater than fifty percent of the amount of the
16 taxes levied by the county upon the taxable personal property located at
17 or within ~~such~~ THE new business facility and used in connection with the
18 operation of ~~such~~ THE new business facility for the current property tax
19 year. The term of any agreement made pursuant to the provisions of this
20 section shall not exceed four years; except that the term of any agreement
21 made or renewed on or after June 3, 2002, may extend to as many as ten
22 years, including the term of any original agreement being renewed.

23 (2) Notwithstanding any law to the contrary, any county may
24 negotiate for an incentive payment or credit with any taxpayer who
25 expands a facility, as defined in ~~section 39-22-508.2 (2) (a)~~ SECTION
26 39-30-105 (7) (c), C.R.S., the expansion of which constitutes a new
27 business facility, as defined in ~~section 39-22-508.2 (3), C.R.S., but~~

1 ~~excluding the requirements of paragraph (b) of said subsection (3)~~
2 SECTION 39-30-105 (7) (e), C.R.S., and ~~which~~ THAT is located in ~~such~~ THE
3 county. In no instance shall any ~~such~~ negotiation result in ~~such~~ an annual
4 incentive payment or credit that is greater than fifty percent of the amount
5 of the taxes levied by the county upon the taxable personal property
6 directly attributable to ~~such~~ THE expansion, located at or within ~~such~~ THE
7 expanded facility, and used in connection with the operation of ~~such~~ THE
8 expanded facility for the current property tax year. The term of any
9 agreement made pursuant to the provisions of this section shall not
10 exceed four years; except that the terms of any agreement made or
11 renewed on or after June 3, 2002, may extend to as many as ten years,
12 including the term of any original agreement being renewed.

13 **SECTION 5.** 31-15-903 (1) (b) and (2), Colorado Revised
14 Statutes, are amended to read:

15 **31-15-903. Legislative declaration - municipalities - new**
16 **business facilities - expansion of existing business facilities -**
17 **incentives - limitations - authority to exceed revenue-raising**
18 **limitation.** (1) (b) Notwithstanding any law to the contrary, any
19 municipality may negotiate for an incentive payment or credit with any
20 taxpayer who establishes a new business facility, as defined in ~~section~~
21 ~~39-22-508.2 (3), C.R.S., but excluding the requirements of paragraph (b)~~
22 ~~of said subsection (3)~~ SECTION 39-30-105 (7) (e), C.R.S., in ~~such~~ THE
23 municipality. In no instance shall any ~~such~~ negotiation result in an annual
24 incentive payment or credit that is greater than fifty percent of the amount
25 of taxes levied by the municipality upon the taxable personal property
26 located at or within ~~such~~ THE new business facility and used in connection
27 with the operation of ~~such~~ THE new business facility for the current

1 property tax year. The term of any agreement made pursuant to the
2 provisions of this section shall not exceed four years; except that the term
3 of any agreement made or renewed on or after June 3, 2002, may extend
4 to as many as ten years, including the term of any original agreement
5 being renewed.

6 (2) Notwithstanding any law to the contrary, any municipality may
7 negotiate for an incentive payment or credit with any taxpayer who
8 expands a facility, as defined in ~~section 39-22-508.2 (2) (a)~~ SECTION
9 39-30-105 (7) (c), C.R.S., the expansion of which constitutes a new
10 business facility, as defined in ~~section 39-22-508.2 (3), C.R.S. but~~
11 ~~excluding the requirements of paragraph (b) of said subsection (3)~~
12 SECTION 39-30-105 (7) (e), C.R.S., and ~~which~~ THAT is located in ~~such~~ THE
13 municipality. In no instance shall any ~~such~~ negotiation result in ~~such~~ an
14 annual incentive payment or credit that is greater than fifty percent of the
15 amount of the taxes levied by the municipality upon the taxable personal
16 property directly attributable to ~~such~~ THE expansion, located at or within
17 ~~such~~ THE expanded facility, and used in connection with the operation of
18 ~~such~~ THE expanded facility for the current property tax year. The term of
19 any agreement made pursuant to the provisions of this section shall not
20 exceed four years; except that the terms of any agreement made or
21 renewed on or after June 3, 2002, may extend to as many as ten years,
22 including the term of any original agreement being renewed.

23 **SECTION 6.** 32-1-1702 (1) and (2), Colorado Revised Statutes,
24 are amended to read:

25 **32-1-1702. New business facilities - expansion of existing**
26 **business facilities - incentives - limitations - authority to exceed**
27 **revenue-raising limitation.** (1) Notwithstanding any law to the

1 contrary, a special district may negotiate for an incentive payment or
2 credit with a taxpayer who establishes a new business facility, as defined
3 in ~~section 39-22-508.2 (3), C.R.S., but excluding the requirements of~~
4 ~~paragraph (b) of such subsection (3)~~ SECTION 39-30-105 (7) (e), C.R.S.,
5 in the special district. In no instance shall any negotiation result in an
6 annual incentive payment or credit that is greater than fifty percent of the
7 amount of taxes levied by the special district upon the taxable business
8 personal property located at or within the new business facility and used
9 in connection with the operation of the new business facility for the
10 current property tax year. The term of any agreement made pursuant to
11 the provisions of this section shall not exceed ten years, including the
12 term of any original agreement being renewed.

13 (2) Notwithstanding any law to the contrary, a special district may
14 negotiate for an incentive payment or credit with a taxpayer who expands
15 a facility, as defined in ~~section 39-22-508.2 (2) (a)~~ SECTION 39-30-105 (7)
16 (c), C.R.S., the expansion of which constitutes a new business facility, as
17 defined in ~~section 39-22-508.2 (3), C.R.S., but excluding the~~
18 ~~requirements of paragraph (b) of such subsection (3)~~ SECTION 39-30-105
19 (7) (e), C.R.S., and ~~which~~ THAT is located in the special district. In no
20 instance shall any negotiation result in an annual incentive payment or
21 credit that is greater than fifty percent of the amount of the taxes levied
22 by the special district upon the taxable business personal property directly
23 attributable to the expansion located at or within the expanded facility and
24 used in connection with the operation of the expanded facility for the
25 current property tax year. The term of any agreement made pursuant to
26 the provisions of this section shall not exceed ten years, including the
27 term of any original agreement being renewed.

1 **SECTION 7.** 39-22-507.5 (3) (a) and (9) (a), Colorado Revised
2 Statutes, are amended to read:

3 **39-22-507.5. Credits against tax - investment in certain**
4 **property.** (3) The credit allowed by this section for any income tax year
5 shall not exceed:

6 (a) The taxpayer's actual tax liability for the income tax year ~~after~~
7 ~~reduction for the credit allowed by section 39-22-508.3~~ to the extent such
8 liability does not exceed five thousand dollars; plus

9 (9) (a) For any income tax year beginning on or after January 1,
10 1979, if any taxpayer is required to redetermine the credit allowed by
11 section 38 of the internal revenue code due to the provisions of section 47
12 of the internal revenue code, such taxpayer must redetermine the credit
13 allowed by subsection (1) of this section for the same income tax year.
14 If ~~such~~ THE redetermination results in a reduction of the credit allowed by
15 this section for ~~such~~ THE income tax year or for any income tax year to
16 which ~~such~~ THE credit was carried back or carried forward, ~~such~~ THE
17 reduction shall constitute an increase in the tax imposed by this article for
18 the income tax year during which the disposition or reclassification of the
19 nature of the property occurs, and the amount of any unused investment
20 tax credit carryback or carryover must be redetermined as appropriate.
21 ~~Such~~ THE increase in tax shall not be included as tax liability for the
22 purposes of subsection (3) of this section. ~~or for determining the credits~~
23 ~~allowed by section 39-22-508.3.~~

24 **SECTION 8.** 39-22-507.6 (3), Colorado Revised Statutes, is
25 amended to read:

26 **39-22-507.6. Credits against corporate tax - investment in**
27 **certain property.** (3) The credit allowed by this section for any income

1 tax year shall not exceed the taxpayer's actual tax liability for the income
2 tax year after reduction for the credit allowed by section 39-22-508.3 to
3 the extent that ~~such~~ THE liability does not exceed one thousand dollars.

4 **SECTION 9.** 39-30-104 (6), Colorado Revised Statutes, is
5 amended to read:

6 **39-30-104. Credit against tax - investment in certain property.**

7 (6) For credits claimed for income tax years commencing on or after
8 January 1, 1997, no credit shall be allowed pursuant to this section if the
9 investment resulted from the relocation of a business operation from
10 within the state to an enterprise zone, regardless of whether the original
11 location of the operation was within an enterprise zone, except to the
12 extent such relocation meets the criteria for an expansion as ~~described in~~
13 ~~section 39-22-508.2 (2) (b) and (2) (c)~~ PURSUANT TO SECTION 39-30-105
14 (7) (c) (II) AND (7) (c) (III).

15 **SECTION 10.** The introductory portion to 39-30-107.5 (3) and
16 39-30-107.5 (3) (a) and (3) (b), Colorado Revised Statutes, are amended
17 to read:

18 **39-30-107.5. Taxable property valuations - sales taxes -**
19 **incentives - definitions.** (3) As used in this section, UNLESS THE
20 CONTEXT OTHERWISE REQUIRES:

21 (a) "Facility" means a facility as defined in ~~section 39-22-508.2~~
22 ~~(2)(a)~~ SECTION 39-30-105 (7) (c).

23 (b) "New business facility" means a new business facility as
24 defined in ~~section 39-22-508.2 (3) but excluding the requirements of~~
25 ~~paragraph (b) of that subsection~~ SECTION 39-30-105 (7) (e).

26 **SECTION 11. Repeal.** 39-22-508.1, 39-22-508.2, 39-22-508.3,
27 39-22-508.4, 39-22-508.5, and 39-22-508.6, Colorado Revised Statutes,

1 are repealed.

2 **SECTION 12. Effective date.** This act shall take effect at 12:01
3 a.m. on the day following the expiration of the ninety-day period after
4 final adjournment of the general assembly that is allowed for submitting
5 a referendum petition pursuant to article V, section 1 (3) of the state
6 constitution, (August 8, 2007, if adjournment sine die is on May 9, 2007);
7 except that, if a referendum petition is filed against this act or an item,
8 section, or part of this act within such period, then the act, item, section,
9 or part, if approved by the people, shall take effect on the date of the
10 official declaration of the vote thereon by proclamation of the governor.