

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0413.01 Esther van Mourik x4215

HOUSE BILL 12-1251

HOUSE SPONSORSHIP

Hullinghorst, Ferrandino

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Heath,

House Committees
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A BILL FOR AN ACT

101 CONCERNING REFORMS TO THE "URBAN AND RURAL ENTERPRISE
102 ZONE ACT".

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>.)

The bill:

! For the income tax years commencing on or after January 1, 2014, limits the amount of an income tax credit that may be claimed in an income tax year for qualified investments in an enterprise zone to the sum of the taxpayer's actual tax

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.

liability for the income tax year up to \$5,000, plus 50% of any portion of the tax liability for the income tax year that exceeds \$5,000 up to a maximum of \$500,000.

- ! Allows a taxpayer to appeal to the Colorado economic development commission (commission) for permission to claim a credit in excess of the limit specified in the bill.
- ! Requires the commission to annually post information regarding claimed investment tax credits on its web site or the Colorado office of economic development's web site.
- ! Requires the commission to provide the department of revenue with information related to taxpayers receiving any credits allowed under the "Urban and Rural Enterprise Zone Act".

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) It is the duty of the general assembly to ensure that every
5 taxpayer dollar is spent in the most effective and efficient way possible
6 in order to obtain the best possible return on investment;

7 (b) Reviewing and improving existing state economic
8 development programs, such as the "Urban and Rural Enterprise Zone
9 Act", article 30 of title 39, Colorado Revised Statutes, in order to ensure
10 that the programs remain relevant, efficient, and effective in expanding
11 Colorado's economy is a priority for the general assembly and allows the
12 general assembly to use any savings to promote other economic
13 development programs that are highly targeted to those businesses that
14 need the most assistance;

15 (c) Promoting sustainable economic growth remains a critical
16 priority while Colorado's economy is recovering, and it is important to
17 update and modernize existing economic development programs to meet
18 the changing needs of Colorado's economy; and

1 (d) The money saved will be used to fund effective economic
2 development programs within the Colorado office of economic
3 development and will provide a source for an economic stability fund to
4 help economic development during times of economic downturn.

5 **SECTION 2.** In Colorado Revised Statutes, 39-30-104, **amend**
6 (2); and **add** (2.7) as follows:

7 **39-30-104. Credit against tax - investment in certain property**
8 **- repeal.** (2) (a) FOR INCOME TAX YEARS COMMENCING PRIOR TO
9 JANUARY 1, 2014, the amount of the credit set forth in subsection (1) of
10 this section shall be subject to the limitations of section 39-22-507.5;
11 except that, in computing the limitations on credit pursuant to section
12 39-22-507.5 (3), a taxpayer's actual tax liability for the income tax year
13 shall not be reduced by the amount of credits allowed by section
14 39-30-105 and the limit on that portion of a taxpayer's tax liability that
15 exceeds five thousand dollars shall be fifty percent.

16 (b) In addition to the limitations set forth in paragraph (a) of this
17 subsection (2), for income tax years commencing on or after January 1,
18 2011, but prior to January 1, 2014, any taxpayer that is eligible to claim
19 a credit pursuant to subsection (1) of this section in excess of five
20 hundred thousand dollars shall defer claiming any amount of the credit
21 allowed pursuant to this section that exceeds five hundred thousand
22 dollars until an income tax year commencing on or after January 1, 2014.
23 The five hundred thousand dollar limitation specified in this paragraph
24 (b) shall apply to any credit allowed in the ~~current year~~ INCOME TAX
25 YEARS COMMENCING ON OR AFTER JANUARY 1, 2011, BUT PRIOR TO
26 JANUARY 1, 2014, including any amount carried forward from a prior
27 year.

1 (c) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
2 JANUARY 1, 2014, EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS
3 PARAGRAPH (c), THE AMOUNT OF THE CREDIT SET FORTH IN SUBSECTION
4 (1) OF THIS SECTION FOR ANY INCOME TAX YEAR SHALL NOT EXCEED THE
5 SUM OF UP TO FIVE THOUSAND DOLLARS OF THE TAXPAYER'S ACTUAL TAX
6 LIABILITY FOR THE INCOME TAX YEAR PLUS FIFTY PERCENT OF ANY
7 PORTION OF THE TAX LIABILITY FOR THE INCOME TAX YEAR THAT EXCEEDS
8 FIVE THOUSAND DOLLARS UP TO A MAXIMUM OF FIVE HUNDRED THOUSAND
9 DOLLARS.

10 (II) IN COMPUTING THE LIMITATIONS OF THE CREDIT PURSUANT TO
11 THIS PARAGRAPH (c), A TAXPAYER'S ACTUAL TAX LIABILITY FOR THE
12 INCOME TAX YEAR SHALL BE DERIVED FROM THE CALCULATED TAX
13 BEFORE ANY REDUCTION OF CREDITS.

14 (III) (A) A TAXPAYER MAY APPEAL THE FIVE HUNDRED THOUSAND
15 DOLLAR LIMITATION SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH
16 (c) BY APPLYING IN WRITING TO THE COLORADO ECONOMIC DEVELOPMENT
17 COMMISSION FOR PERMISSION TO CLAIM A CREDIT IN EXCESS OF SUCH
18 LIMIT. THE TAXPAYER SHALL PROVIDE TO THE COLORADO ECONOMIC
19 DEVELOPMENT COMMISSION INFORMATION THAT INDICATES THE
20 ADDITIONAL INCOME TAX CREDIT IS A SUBSTANTIAL FACTOR TO THE
21 START-UP, EXPANSION, OR RELOCATION OF THE TAXPAYER'S BUSINESS IN
22 THE ENTERPRISE ZONE. THE COLORADO ECONOMIC DEVELOPMENT
23 COMMISSION MAY REQUIRE THE TAXPAYER TO PROVIDE AN INDEPENDENT
24 ANALYSIS, AT THE TAXPAYER'S EXPENSE, INDICATING THAT THE
25 ADDITIONAL INCOME TAX CREDIT IS A SUBSTANTIAL FACTOR TO THE
26 START-UP, EXPANSION, OR RELOCATION OF THE TAXPAYER'S BUSINESS IN
27 THE ENTERPRISE ZONE. THE APPEAL SHALL BE CONSIDERED AT A PUBLIC

1 HEARING OF THE COLORADO ECONOMIC DEVELOPMENT COMMISSION.

2 (B) THE ECONOMIC DEVELOPMENT COMMISSION MAY ALLOW ALL,
3 PART, OR NONE OF A TAXPAYER'S REQUEST TO CLAIM A CREDIT IN EXCESS
4 OF THE FIVE HUNDRED THOUSAND DOLLAR LIMIT. THE COLORADO
5 ECONOMIC DEVELOPMENT COMMISSION SHALL ISSUE A CREDIT
6 CERTIFICATE FOR THAT CALENDAR YEAR IN THE AMOUNT OF THE TAX
7 CREDIT IN EXCESS OF THE FIVE HUNDRED THOUSAND DOLLAR LIMIT TO THE
8 TAXPAYER. THE CREDIT CERTIFICATE SHALL BE SUBMITTED BY THE
9 TAXPAYER TO THE DEPARTMENT OF REVENUE WITH THE TAXPAYER'S
10 INCOME TAX RETURN FOR THE TAX YEAR THAT INCLUDES THE DECEMBER
11 31 OF THE CALENDAR YEAR FOR WHICH THE CREDIT CERTIFICATE IS
12 ISSUED. IF THE AMOUNT OF THE CREDIT ALLOWED BY THE COLORADO
13 ECONOMIC DEVELOPMENT COMMISSION PURSUANT TO THIS
14 SUBPARAGRAPH (III) EXCEEDS THE AMOUNT OF INCOME TAXES OTHERWISE
15 DUE ON THE TAXPAYER'S INCOME IN THE INCOME TAX YEAR FOR WHICH
16 THE CREDIT IS BEING CLAIMED, THE AMOUNT OF THE CREDIT ALLOWED
17 PURSUANT TO THIS SUBPARAGRAPH (III) AND NOT USED AS AN OFFSET
18 AGAINST INCOME TAXES IN THE CURRENT INCOME TAX YEAR MAY BE
19 CARRIED FORWARD AND USED AS A CREDIT AGAINST SUBSEQUENT YEARS'
20 INCOME TAX LIABILITY FOR A PERIOD NOT TO EXCEED TWELVE YEARS AND
21 SHALL BE APPLIED FIRST TO THE EARLIEST INCOME TAX YEARS POSSIBLE.
22 ANY CREDIT REMAINING AFTER SAID PERIOD SHALL NOT BE REFUNDED OR
23 CREDITED TO THE TAXPAYER.

24 (C) IN THE EVENT THE COLORADO ECONOMIC DEVELOPMENT
25 COMMISSION APPROVES A TAXPAYER'S APPEAL, THE COLORADO ECONOMIC
26 DEVELOPMENT COMMISSION SHALL INCLUDE THE RESULT OF THE APPEAL
27 IN ITS ANNUAL REPORT TO THE GENERAL ASSEMBLY SPECIFIED IN SECTION

1 39-30-103 (4) (b.7), INCLUDING THE TAXPAYER'S NAME, THE AMOUNT OF
2 THE APPEAL, AND THE COLORADO ECONOMIC DEVELOPMENT
3 COMMISSION'S JUSTIFICATION FOR APPROVING THE APPEAL.

4 (2.7) THE COLORADO ECONOMIC DEVELOPMENT COMMISSION
5 SHALL ANNUALLY POST ON ITS WEB SITE, OR ON THE COLORADO OFFICE OF
6 ECONOMIC DEVELOPMENT'S WEB SITE, THE FOLLOWING INFORMATION
7 REGARDING ANY INCOME TAX CREDITS CLAIMED PURSUANT TO
8 SUBSECTION (1) OF THIS SECTION:

- 9 (a) THE ENTERPRISE ZONE FOR THE CLAIMED CREDIT;
- 10 (b) THE NAME OF THE TAXPAYER OR BUSINESS;
- 11 (c) THE TYPE OF BUSINESS;
- 12 (d) THE TAX YEAR THE CREDIT IS BEING CLAIMED FOR;
- 13 (e) THE TOTAL QUALIFIED INVESTMENT REPORTED;
- 14 (f) THE AMOUNT OF THE QUALIFIED INVESTMENT THAT QUALIFIES
15 FOR THE CREDIT;
- 16 (g) THE CALCULATED CREDIT; AND
- 17 (h) THE COUNTY WHERE THE QUALIFIED INVESTMENT IS MADE.

18 **SECTION 3.** In Colorado Revised Statutes, 39-30-111, **add** (5)
19 as follows:

20 **39-30-111. Department of revenue - enterprise zone data -**
21 **electronic filing - submission of carryforward schedule.** (5) NOLATER
22 THAN SEPTEMBER 1, 2012, AND NO LATER THAN SEPTEMBER 1 OF EACH
23 YEAR THEREAFTER, THE COLORADO ECONOMIC DEVELOPMENT
24 COMMISSION SHALL PROVIDE THE DEPARTMENT OF REVENUE WITH AN
25 ELECTRONIC REPORT OF THE TAXPAYERS RECEIVING ONE OR MORE INCOME
26 TAX CREDITS PURSUANT TO THIS ARTICLE FOR THE PRECEDING CALENDAR
27 YEAR OR ANY FISCAL YEAR ENDING IN THE PRECEDING CALENDAR YEAR

1 AND OF ANY CREDITS DISALLOWED PURSUANT TO THIS ARTICLE. THE
2 REPORT SHALL CONTAIN THE FOLLOWING INFORMATION FOR EACH
3 TAXPAYER:

4 (a) THE TAXPAYER'S NAME;

5 (b) THE TAXPAYER'S COLORADO ACCOUNT NUMBER AND FEDERAL
6 EMPLOYER IDENTIFICATION NUMBER;

7 (c) THE AMOUNT OF EACH CREDIT ALLOWED TO THE TAXPAYER;

8 AND

9 (d) ANY ASSOCIATED TAXPAYERS' NAMES, COLORADO ACCOUNT
10 NUMBERS, AND FEDERAL EMPLOYER IDENTIFICATION NUMBERS OR SOCIAL
11 SECURITY NUMBERS, IF THE CREDIT ALLOWED IN THIS SECTION IS
12 ALLOCATED FROM A PASS-THROUGH ENTITY.

13 **SECTION 4. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly (August
16 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a
17 referendum petition is filed pursuant to section 1 (3) of article V of the
18 state constitution against this act or an item, section, or part of this act
19 within such period, then the act, item, section, or part will not take effect
20 unless approved by the people at the general election to be held in
21 November 2012 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.