A BILL FOR AN ACT

Concerning reforms to the "Urban and Rural Enterprise Zone Act", and, in connection therewith, making an appropriation.

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:

! Commencing January 1, 2014, requires the director of the Colorado office of economic development and the Colorado economic development commission

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.
(commission) to review the enterprise zone designations at least once every 10 years to ensure that the existing zones continue to meet the statutory criteria to qualify as an enterprise zone.

For credits certified 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 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 $1 million.

Allows a taxpayer to appeal to the commission for a credit in excess of the $1 million limit.

Requires the commission to annually post information regarding certified investment tax credits on its web site or the Colorado office of economic development's web site.

Increases the income tax credit for investments made in a qualified job training program in an enterprise zone for income tax years commencing on and after January 1, 2014, from 10% of the total investment to 12%.

Increases the income tax credit for establishing a new business facility in an enterprise zone for income tax years commencing on and after January 1, 2014, from $500 for each new business facility employee to $1,100.

Increases the income tax credit for each new business facility employee in an enterprise zone who is insured under a health insurance plan or program provided through his or her employer for income tax years commencing on and after January 1, 2014, from $200 per such employee to $1,000.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

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

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

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

(d) The money saved as a result of improvements will be used to fund effective economic development programs within state agencies and will provide a source to enhance economic development in the state.

SECTION 2. In Colorado Revised Statutes, 39-30-103, repeal (2) (b).

SECTION 3. In Colorado Revised Statutes, 39-30-103, amend (2) (a) and (2) (c) (I); and add (8) as follows:

39-30-103. Zones established - review - termination - repeal.

(2) (a) Except as provided in paragraphs (b) and (c) PARAGRAPH (c) of this subsection (2), the director of the Colorado office of economic development shall determine whether an area meets the criteria specified in subsection (1) of this section based on the most recent statistics available. Except as provided in paragraphs (b) and (c) PARAGRAPH (c) of this subsection (2), all decisions concerning the designation or termination of an enterprise zone or any portion of an enterprise zone shall be made by the Colorado economic development commission created in section 24-46-102, C.R.S., upon the recommendations of the
director of the Colorado office of economic development.

(c) (I) Commencing January 1, 2016 January 1, 2014, the director of the Colorado office of economic development and the Colorado economic development commission shall review the enterprise zone designations no less frequently than once every five years to ensure that the existing zones continue to meet the criteria specified in subsection (1) of this section. The director and the commission may modify existing enterprise zone designations based on the review specified in this paragraph (c). If it is determined that existing enterprise zone designations need to be modified, such modification shall not be undertaken in a high unemployment period, but the director and the commission shall review the need for such modifications again as soon as the state is no longer in a high unemployment period. Any modification shall be reported to the legislative audit committee in conjunction with the annual presentation described in paragraph (b.7) of subsection (4) of this section and shall also be reported to the finance committees of the house of representatives and the senate, or any successor committees.

(8) Notwithstanding any other provision to the contrary, for tax years commencing on or after January 1, 2014, only a taxpayer that is engaged in a business that is legal under both state and federal law is eligible to claim a credit pursuant to the provisions of this article.

SECTION 4. In Colorado Revised Statutes, 39-30-104, amend (2), (2.5) (a), and (4) (a); and add (2.7) as follows:

39-30-104. Credit against tax - investment in certain property - repeal. (2) (a) For income tax years commencing prior to
JANUARY 1, 2014, the amount of the credit set forth in subsection (1) of this section shall be subject to the limitations of section 39-22-507.5; except that, in computing the limitations on credit pursuant to section 39-22-507.5 (3), a taxpayer's actual tax liability for the income tax year shall not be reduced by the amount of credits allowed by section 39-30-105 and the limit on that portion of a taxpayer's tax liability that exceeds five thousand dollars shall be fifty percent.

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

(c) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2014, EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (c), THE AMOUNT THAT MAY BE CLAIMED BY A TAXPAYER FOR THE INCOME TAX YEAR IN WHICH THE TOTAL QUALIFIED INVESTMENT IS MADE IS LIMITED TO THE LESSER OF:

(A) THE SUM OF UP TO FIVE THOUSAND DOLLARS OF THE TAXPAYER'S ACTUAL TAX LIABILITY FOR THE INCOME TAX YEAR PLUS
FIFTY PERCENT OF ANY PORTION OF THE TAX LIABILITY FOR THE INCOME
TAX YEAR THAT EXCEEDS FIVE THOUSAND DOLLARS; OR

(B) SEVEN HUNDRED AND FIFTY THOUSAND DOLLARS PLUS ANY
INVESTMENT TAX CREDIT CARRYOVERS ALLOWED IN SUBPARAGRAPH (III)
of this paragraph (c) or previously allowed in subsection (2.5) of
this section.]

(II) (A) A TAXPAYER MAY SEEK A WAIVER OF THE LIMITATION
SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) BY COMPLETING
A WRITTEN APPLICATION TO THE COLORADO ECONOMIC DEVELOPMENT
COMMISSION FOR PERMISSION TO CLAIM A CREDIT IN EXCESS OF SUCH
LIMIT FOR THE INCOME TAX YEAR IN WHICH THE TOTAL QUALIFIED
INVESTMENT IS MADE. THE APPLICATION MUST INCLUDE AN
IDENTIFICATION OF THE SUBSTANTIAL POSITIVE IMPACT THE WAIVER OF
THE LIMITATION WOULD HAVE ON INVESTMENTS AND ON WELL-PAYING
JOBS IN THE ENTERPRISE ZONE, DOCUMENTATION THAT DEMONSTRATES
THAT WITHOUT THE WAIVER OF THE LIMITATION THE SUBSTANTIAL
POSITIVE IMPACT ON INVESTMENTS AND ON WELL-PAYING JOBS IN THE
ENTERPRISE ZONE IS NOT LIKELY TO OCCUR, AND INFORMATION THAT THE
WAIVER OF THE LIMITATION IS A SUBSTANTIAL FACTOR TO THE START-UP,
EXPANSION, OR RELOCATION OF THE TAXPAYER'S BUSINESS, THAT RECEIPT
OF THE WAIVER OF THE LIMITATION IS A MAJOR FACTOR IN THE
TAXPAYER'S DECISION, AND THAT WITHOUT THE WAIVER OF THE
LIMITATION THE TAXPAYER IS NOT LIKELY TO MAKE THE QUALIFIED
INVESTMENT. IN DECIDING WHETHER TO GRANT THE WAIVER OF THE
LIMITATION, THE COMMISSION MUST CONSIDER THE OVERALL ECONOMIC
HEALTH OF THIS STATE AND THE ECONOMIC VIABILITY OF THE ARGUMENTS
MADE BY THE TAXPAYER IN SUPPORT OF THE TAXPAYER'S APPLICATION.
The Colorado Economic Development Commission may require the taxpayer to provide an independent analysis, at the taxpayer’s expense, substantiating the taxpayer’s arguments in support of the application. The taxpayer’s application must be considered at a regularly scheduled meeting of the Colorado Economic Development Commission where the public is allowed to comment.

(B) The Colorado Economic Development Commission may allow all, part, or none of a taxpayer’s application to waive the limitation specified in subparagraph (I) of this paragraph (c). The Colorado Economic Development Commission shall issue a credit certificate that sets forth the amount of the credit that the taxpayer may claim for the income tax year in which the total qualified investment is made. The credit certificate shall be submitted by the taxpayer to the Department of Revenue with the taxpayer’s income tax return for the tax year for which the credit certificate is issued.

(C) In the event the Colorado Economic Development Commission approves a taxpayer’s application to waive the limitation specified in subparagraph (I) of this paragraph (c), the Colorado Economic Development Commission shall include its decision in the Enterprise Zone Annual Report to the General Assembly specified in Section 39-30-103 (4) (b.7), including the taxpayer’s name, the amount of the credit that the Commission allowed the taxpayer to claim, and the Colorado Economic Development Commission’s justification for approving the application.
(III) Any excess credit allowed pursuant to this paragraph (c) shall be an investment tax credit carryover to each of the fourteen income tax years following the unused credit year.

(IV) The limitation contained in this paragraph (c) on the amount a taxpayer may claim for the income tax year in which the total qualified investment is made does not limit the total amount of the credit allowed under subsection (1) of this section, nor does it limit the ability of a taxpayer to carryover a credit to subsequent tax years as allowed in subparagraph (III) of this paragraph (c) or previously allowed in subsection (2.5) of this section.

(V) In computing the amount that may be claimed by a taxpayer pursuant to this paragraph (c), a taxpayer's actual tax liability for the income tax year shall be derived from the calculated tax before any reduction of credits.

(2.5) (a) Notwithstanding the provisions of section 39-22-507.5 (7) (b), and except as otherwise provided in paragraph (b) of this subsection (2.5), any excess credit allowed pursuant to this section shall be an investment tax credit carryover to each of the twelve income tax years following the unused credit year.

(2.7) The Colorado Economic Development Commission shall annually post on its web site or on the Colorado Office of Economic Development's web site the following information regarding any enterprise zone investment tax credit certified under this section:

(a) The enterprise zone for the certified credit;
(b) The name of the taxpayer or business;
(c) The type of business;
(d) The tax year for which the credit is certified;
(e) The total qualified investment reported;
(f) The amount of the qualified investment that qualifies for the credit;
(g) The calculated credit; and
(h) The county where the qualified investment is made.

(4) (a) (I) In addition to any other credit allowed under this section, for income tax years commencing on or after January 1, 1997, but prior to January 1, 2014, there shall be allowed to any person as a credit against the tax imposed by article 22 of this title an amount equal to ten percent of the total investment made during the taxable year in a qualified job training program.

(II) In addition to any other credit allowed under this section, for income tax years commencing on or after January 1, 2014, there shall be allowed to any person as a credit against the tax imposed by article 22 of this title an amount equal to twelve percent of the total investment made during the taxable year in a qualified job training program.

SECTION 5. In Colorado Revised Statutes, 39-30-105, amend (1) (a) (I) and (1) (b) as follows:

39-30-105. Credit for new business facility employees - definitions. (1) (a) (I) (A) For any income tax year commencing on or after January 1, 1993, but prior to January 1, 2014, any taxpayer who establishes a new business facility in an enterprise zone shall be allowed a credit against the income tax imposed by article 22 of this title in an
amount equal to five hundred dollars per income tax year for each new
business facility employee, pursuant to subsection (6) of this section, who
is working within the zone, prorated according to the number of months
the employee was employed by the taxpayer during the income tax year.
An employee whose primary duties consist of operating a commercial
motor vehicle with a commercial driver's license shall be deemed to be
working one hundred percent within the zone if the employee spends no
more than five percent of his or her total time at any facility of the
employer other than the facility within the zone.

(B) For any income tax year commencing on or after January 1, 2014, any taxpayer who establishes a new business
facility in an enterprise zone shall be allowed a credit against
the income tax imposed by Article 22 of this title in an amount
equal to one thousand one hundred dollars per income tax year
for each new business facility employee, pursuant to subsection
(6) of this section, who is working within the zone, prorated
according to the number of months the employee was employed
by the taxpayer during the income tax year. An employee whose
primary duties consist of operating a commercial motor vehicle
with a commercial driver's license shall be deemed to be working
one hundred percent within the zone if the employee spends no
more than five percent of his or her total time at any facility of
the employer other than the facility within the zone.

(b) (I) In addition to the credit available under
sub-subparagraph (A) of subparagraph (I) of paragraph (a) of this
subsection (1) and subparagraph (III) of paragraph (a) of this
subsection (1), a taxpayer qualified under said paragraph (a) for such
CREDITS shall be allowed for the first two full income tax years while located in an enterprise zone a credit in an amount equal to two hundred dollars for each new business facility employee who is insured under a health insurance plan or program provided through his or her employer. To be eligible for such credit, the employer must contribute fifty percent or more of the total cost of a health insurance plan or program, and such plan or program must be in accordance with the provisions of article 8 of title 10 or part 1, 2, 3, or 4 of article 16 of title 10, C.R.S., or be a self-insurance program and include partial or complete coverage for hospital and physician services.

(II) In addition to the credit available under sub-subparagraph (B) of subparagraph (I) of paragraph (a) of this subsection (1) and subparagraph (III) of paragraph (a) of this subsection (1), a taxpayer qualified for such credits shall be allowed for the first two full income tax years while located in an enterprise zone a credit in an amount equal to one thousand dollars for each new business facility employee who is insured under a health insurance plan or program provided through his or her employer. To be eligible for such credit, the employer must contribute fifty percent or more of the total cost of a health insurance plan or program, and such plan or program must be in accordance with the provisions of article 8 of title 10 or part 1, 2, 3, or 4 of article 16 of title 10, C.R.S., or be a self-insurance program and include partial or complete coverage for hospital and physician services.

SECTION 6. In Colorado Revised Statutes, 2-3-1203, repeal (3)(aa)(VI) as follows:
2-3-1203. Sunset review of advisory committees. (3) The following dates are the dates for which the statutory authorization for the designated advisory committees is scheduled for repeal:

(aa) July 1, 2014;

(VI) The enterprise zone review task force, created in section 39-30-103, C.R.S.;

SECTION 7. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 2013, the sum of $1,600, or so much thereof as may be necessary, for allocation to the taxation business group for programming services related to the implementation of this act.

SECTION 8. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.