

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0238.01 Esther van Mourik x4215

HOUSE BILL 13-1142

HOUSE SPONSORSHIP

Hullinghorst, Court, Ferrandino, Kagan, Pabon

SENATE SPONSORSHIP

Heath,

House Committees
Finance

Senate Committees

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:

! Commencing January 1, 2014, requires the director of the Colorado office of economic development and the Colorado economic development commission (commission) to review the enterprise zone designations at

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.

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.

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

1 Act", article 30 of title 39, Colorado Revised Statutes, in order to ensure
2 that the programs remain relevant, efficient, and effective in expanding
3 Colorado's economy is a priority for the general assembly and allows the
4 general assembly to use any savings to promote other economic
5 development programs that are highly targeted to those businesses that
6 need the most assistance;

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

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

14 **SECTION 2.** In Colorado Revised Statutes, 39-30-103, **amend**
15 (2) (c) (I) as follows:

16 **39-30-103. Zones established - review - termination - repeal.**

17 (2) (c) (I) Commencing ~~January 1, 2016~~ JANUARY 1, 2014, the director
18 of the Colorado office of economic development and the Colorado
19 economic development commission shall review the enterprise zone
20 designations no less frequently than once every ~~five~~ TEN years to ensure
21 that the existing zones continue to meet the criteria specified in
22 subsection (1) of this section. The director and the commission may
23 modify existing enterprise zone designations based on the review
24 specified in this paragraph (c). If it is determined that existing enterprise
25 zone designations need to be modified, such modification shall not be
26 undertaken in a high unemployment period. Any modification shall be
27 reported to the legislative audit committee in conjunction with the annual

1 presentation described in paragraph (b.7) of subsection (4) of this section
2 and shall also be reported to the finance committees of the house of
3 representatives and the senate, or any successor committees.

4 **SECTION 3.** In Colorado Revised Statutes, 39-30-104, **amend**
5 (2) and (4) (a); and **add** (2.7) as follows:

6 **39-30-104. Credit against tax - investment in certain property**
7 **- repeal.** (2) (a) FOR INCOME TAX YEARS COMMENCING PRIOR TO
8 JANUARY 1, 2014, the amount of the credit set forth in subsection (1) of
9 this section shall be subject to the limitations of section 39-22-507.5;
10 except that, in computing the limitations on credit pursuant to section
11 39-22-507.5 (3), a taxpayer's actual tax liability for the income tax year
12 shall not be reduced by the amount of credits allowed by section
13 39-30-105 and the limit on that portion of a taxpayer's tax liability that
14 exceeds five thousand dollars shall be fifty percent.

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

27 (c) (I) FOR CREDITS CERTIFIED AS REQUIRED IN SECTION 39-30-103

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

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

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

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

22 (C) IN THE EVENT THE COLORADO ECONOMIC DEVELOPMENT
23 COMMISSION APPROVES A TAXPAYER'S APPEAL, THE COLORADO ECONOMIC
24 DEVELOPMENT COMMISSION SHALL INCLUDE THE RESULT OF THE APPEAL
25 IN ITS ANNUAL REPORT TO THE GENERAL ASSEMBLY SPECIFIED IN SECTION
26 39-30-103 (4) (b.7), INCLUDING THE TAXPAYER'S NAME, THE AMOUNT OF
27 THE APPEAL, AND THE COLORADO ECONOMIC DEVELOPMENT

1 COMMISSION'S JUSTIFICATION FOR APPROVING THE APPEAL.

2 (2.7) THE COLORADO ECONOMIC DEVELOPMENT COMMISSION
3 SHALL ANNUALLY POST ON ITS WEB SITE OR ON THE COLORADO OFFICE OF
4 ECONOMIC DEVELOPMENT'S WEB SITE THE FOLLOWING INFORMATION
5 REGARDING ANY ENTERPRISE ZONE INVESTMENT TAX CREDIT CERTIFIED
6 UNDER THIS SECTION:

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

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

22 (II) IN ADDITION TO ANY OTHER CREDIT ALLOWED UNDER THIS
23 SECTION, FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
24 1, 2014, THERE SHALL BE ALLOWED TO ANY PERSON AS A CREDIT AGAINST
25 THE TAX IMPOSED BY ARTICLE 22 OF THIS TITLE AN AMOUNT EQUAL TO
26 TWELVE PERCENT OF THE TOTAL INVESTMENT MADE DURING THE TAXABLE
27 YEAR IN A QUALIFIED JOB TRAINING PROGRAM.

1 **SECTION 4.** In Colorado Revised Statutes, 39-30-105, **amend**
2 (1) (a) (I) and (1) (b) as follows:

3 **39-30-105. Credit for new business facility employees -**
4 **definitions.** (1) (a) (I) (A) For any income tax year commencing on or
5 after January 1, 1993, BUT PRIOR TO JANUARY 1, 2014, any taxpayer who
6 establishes a new business facility in an enterprise zone shall be allowed
7 a credit against the income tax imposed by article 22 of this title in an
8 amount equal to five hundred dollars per income tax year for each new
9 business facility employee, pursuant to subsection (6) of this section, who
10 is working within the zone, prorated according to the number of months
11 the employee was employed by the taxpayer during the income tax year.
12 An employee whose primary duties consist of operating a commercial
13 motor vehicle with a commercial driver's license shall be deemed to be
14 working one hundred percent within the zone if the employee spends no
15 more than five percent of his or her total time at any facility of the
16 employer other than the facility within the zone.

17 **(B)** FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER
18 JANUARY 1, 2014, ANY TAXPAYER WHO ESTABLISHES A NEW BUSINESS
19 FACILITY IN AN ENTERPRISE ZONE SHALL BE ALLOWED A CREDIT AGAINST
20 THE INCOME TAX IMPOSED BY ARTICLE 22 OF THIS TITLE IN AN AMOUNT
21 EQUAL TO ONE THOUSAND ONE HUNDRED DOLLARS PER INCOME TAX YEAR
22 FOR EACH NEW BUSINESS FACILITY EMPLOYEE, PURSUANT TO SUBSECTION
23 (6) OF THIS SECTION, WHO IS WORKING WITHIN THE ZONE, PRORATED
24 ACCORDING TO THE NUMBER OF MONTHS THE EMPLOYEE WAS EMPLOYED
25 BY THE TAXPAYER DURING THE INCOME TAX YEAR. AN EMPLOYEE WHOSE
26 PRIMARY DUTIES CONSIST OF OPERATING A COMMERCIAL MOTOR VEHICLE
27 WITH A COMMERCIAL DRIVER'S LICENSE SHALL BE DEEMED TO BE WORKING

1 ONE HUNDRED PERCENT WITHIN THE ZONE IF THE EMPLOYEE SPENDS NO
2 MORE THAN FIVE PERCENT OF HIS OR HER TOTAL TIME AT ANY FACILITY OF
3 THE EMPLOYER OTHER THAN THE FACILITY WITHIN THE ZONE.

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

18 (II) IN ADDITION TO THE CREDIT AVAILABLE UNDER
19 SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS
20 SUBSECTION (1) AND SUBPARAGRAPH (III) OF PARAGRAPH (a) OF THIS
21 SUBSECTION (1), A TAXPAYER QUALIFIED FOR SUCH CREDITS SHALL BE
22 ALLOWED FOR THE FIRST TWO FULL INCOME TAX YEARS WHILE LOCATED
23 IN AN ENTERPRISE ZONE A CREDIT IN AN AMOUNT EQUAL TO ONE
24 THOUSAND DOLLARS FOR EACH NEW BUSINESS FACILITY EMPLOYEE WHO
25 IS INSURED UNDER A HEALTH INSURANCE PLAN OR PROGRAM PROVIDED
26 THROUGH HIS OR HER EMPLOYER. TO BE ELIGIBLE FOR SUCH CREDIT, THE
27 EMPLOYER MUST CONTRIBUTE FIFTY PERCENT OR MORE OF THE TOTAL

1 COST OF A HEALTH INSURANCE PLAN OR PROGRAM, AND SUCH PLAN OR
2 PROGRAM MUST BE IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 8
3 OF TITLE 10 OR PART 1, 2, 3, OR 4 OF ARTICLE 16 OF TITLE 10, C.R.S., OR
4 BE A SELF-INSURANCE PROGRAM AND INCLUDE PARTIAL OR COMPLETE
5 COVERAGE FOR HOSPITAL AND PHYSICIAN SERVICES.

6 **SECTION 5. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, and safety.